

THE MAKING OF A CONSTITUTION

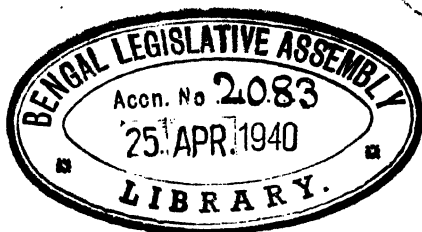
342
/ 42

THE MAKING OF A CONSTITUTION

By

HON. SIR HENRY BRADDON, K.B.E., M.L.C.

*Author of Essays and Addresses, Business Principles and
Practice, American Impressions, etc.*



AUSTRALIA:
ANGUS & ROBERTSON LIMITED
89 CASTLEREAGH STREET, SYDNEY
1930

WHOLLY SET UP AND PRINTED
IN AUSTRALIA BY
HALSTEAD PRINTING COMPANY
LTD., ALLEN STREET, WATERLOO
1930

REGISTERED AT THE GENERAL
POST OFFICE, SYDNEY, FOR
TRANSMISSION THROUGH THE
POST AS A BOOK

OBTAINABLE IN LONDON FROM
THE AUSTRALIAN BOOK COM-
PANY 16 FARRINGDON AVENUE,
E.C.4.

PREFACE

THE very sound of the word "Constitution" suffices to intimidate most readers, and the man who is rash enough to write upon such a subject cannot reasonably expect a wide circle of readers. I may explain why I have ventured.

Some seven or eight years ago I began compiling notes about our Constitution, in the few moments of leisure permitted to me. I did this because on several occasions—in Parliament and outside it—I found myself embarrassed by my vague knowledge of the evolution of the British Constitution. I began making notes from suitable material, with the dim idea of a pamphlet of quite slender dimensions; but as the years passed, more and more notes were added; and then I realized that I had set myself a far larger task than I had imagined.

When—quite recently—I began to write the story, I found to my dismay that I had forgotten for what special reason some of the notes had been made; and this necessitated revision. Also I realized that I was in for something very like a book!

However, I do not regret the effort. If all those folk who at times find themselves embarrassed by lack of constitutional knowledge will be good enough to read this book—the circle of readers might not be so very small after all! But will they?

H. Y. BRADDON.

THE MAKING OF A CONSTITUTION

A CURIOUSLY interesting study is that of the gradual transfer of power from the King to the People in Parliament assembled. The kings of England gallantly and stubbornly strove to retain their powers of royal prerogative; but in their protracted conflict with the Parliament these gradually were curbed or abolished. The kings successfully combated other forces—the decentralizing tendency of Feudalism—the Baronage—and the Church: but eventually they had to succumb to the people, and to the statute law set up by the people.

The following notes are based upon half a dozen histories, several of the ordinary type and one or two constitutional: but only the barest details are given—just enough it is hoped to illustrate the story of these interesting and overlapping contests. This paper does not profess to be a history or a textbook; it is no more than a layman's careful sketch for the benefit of young people who lack the time or opportunity themselves to study the standard authorities.

Before the Conquest (1066) kingship in large degree was hereditary; yet each successive monarch was the confirmed choice of the people. For centuries to follow it was held to be the right of the nation to pass over a claimant who might be

considered too wicked or too weak for the throne. The most despotic king did not claim by himself to *make laws*; he did so with the counsel and consent of his "wise men." These earlier laws were comparatively simple, and dealt mainly with the relations of men one with another. In Canute's time this Council—consisting of barons and prelates—was called the Witan, or Witenagemot; and in theory it exercised wide powers. Its function was to elect or depose kings, to nominate bishops and high officers of state, to impose taxes (aids or levies), and it was the final court for the more important civil and criminal cases. Later on it evolved into the Great Council of Barons.

The Ealdorman (or Earl), once hereditary ruler of a small state within the state, became at times a virtual deputy of the king; and for centuries the members of this higher nobility strove to retain their individual and collective powers.

The later and lesser nobility, the Thanes, rendered service to the earls; and this was held to ennoble rather than degrade. These thanes became a standing council for the transaction of ordinary *administrative* business. They were in effect a ministry, composed of thanes and prelates nominated by the king, and they formed a large part of the Witan when that body gathered for *legislative* purposes. Such an assembly fairly adequately represented the nation, composed as it was of representatives from the higher clergy, the earls, thanes, and knights. The king exercised considerable personal power if he was strong enough to control the Witan; and he enjoyed the advantage that as a rule he could summon those who suited his purpose. If on the

contrary he was weak, the Witan was able to impose effective checks upon his actions. Our earlier kings were not always discreet. Had they been so, they would have preserved very carefully the outward forms of constitutionalism, while really exercising something like despotic rule. In later centuries the Tudors shrewdly appreciated this possibility, and utilized it most skilfully: while the unhappy Stuarts were not so sagacious, and came sadly to grief.

In the earlier times the lesser clergy and commoners (merchants) did not attend the Witan, while the minor thanes and knights, because of distance and expense, became rarer and rarer attendants. Gradually the Witan became an assembly of earls, bishops, and high officers of the Crown—actually an oligarchy. Inevitably this resulted in the long-drawn-out contest between the king and the baronage. The struggle weakened both, and ultimately, centuries later, led to the establishment of the supremacy of Parliament, and particularly of the House of Commons.

The general insecurity of the olden times drove the free tiller of the soil to seek protection of the thane; and in return he rendered military service. From Alfred's day it was assumed that no man should be without a lord; and the lordless man became something of an outlaw. The "villein" (or copyholder) only assisted in the sowing, ploughing, and harvesting of the lord's lands, and at a later period he commuted these services for money payments. The landless men usually served as hired labourers or household servants, or they became rent-paying tenants of land not their own. They were "serfs," and worked all the year round. They

4 THE MAKING OF A CONSTITUTION

also later commuted as the villein had done. Even the "free" man at times declined to the status of villein, rendering service to a master. Similarly, the thanes gathered round the greater nobles, and the latter in turn round the provincial earl.

*William the Conqueror (Norman, 1066-1087).—*William brought into England a fuller feudalism; yet the system never reached in our country the degree of development it attained in Europe, particularly in France. He evicted Saxons extensively and parcelled out their lands to his Norman followers—*who all held of the king*. At times a Saxon ex-landholder was "restored"—when he too held of the king. Feudalism provided the main social bond between the lord and his men. The king gathered round him a body of armed vassals who were the great landowners. The smaller folk placed themselves under the protection of these lords, and tilled the soil while the lords did the fighting. The lord defended and protected—the men rendered service (including service in arms) and money payment. The men held of the lord, who claimed jurisdiction over them, and maintained courts for them. For this purpose the king often sold rights to hold such private courts. The king was the lord of all—below him were the "tenants-in-chief"—who in turn were the lords of *their* tenants—and so on downward. Land possession was the keynote of the system; and treason against a lord—king or other—was a capital crime. Feudalism strengthened the great lords, and tended to weaken the central power of the king. To check this tendency William—himself not far from being an absolute monarch—decreed that *all*

men were king's men and owed allegiance to the king alone. Military service was due to the lords, but only to the lords when required by the king. It was an obligation upon the men to follow the lord's banner, but only in the national army. All these aspects faded away in the next few centuries, concurrently with the increase of power of "King and Parliament."

The Normans gave England firm government, and so gradually produced a sense of national unity. Henry I (1100-1135) conferred upon the realm a fairly high degree of administrative order: and Henry II (1154-1189) built up the fabric of the law. On the other hand, the Norman kings brought in the Norman baronage, and every Norman, lord or man, became a landowner. The latter became the liegeman of the lords, and rendered military service as has been described. All landowners paid rent to the Crown; while the king in addition drew revenue from the royal demesne, from court fines, charters sold, and other sources.

Under William the Conqueror the Witan met three times a year. Its right to join in the imposition of taxation had been admitted previously in theory—if not always in practice. Already a smaller permanent body was forming round the king, consisting of selected barons and higher clergy; and at its head was the chief justiciar, with the chancellor and other great officers of the state *chosen by the king*. Under Henry II this body became organic, with the duty of advising the king. At times it was subservient to the will of the reigning monarch; at others its participation in administration made it a valuable check upon the royal will. It was the

Curia Regis, or King's Council; and when it sat for purposes of finance it was the Exchequer. It exercised wide judicial powers—legally and illegally, usefully and arbitrarily—according to the times and the men concerned. Gradually in later centuries it was shorn of its powers. In matters of administration it emerged ultimately as the modern Cabinet—theoretically responsible to the king, but actually to parliament, while the remainder of its judicial powers were exercised by the Privy Council, now the final court of appeal for all overseas cases.

William II (Norman, 1087-1100), Henry I (Norman, 1100-1135).—Henry I, as has been mentioned, gave to England the foundations of administrative order, and in some degree prepared the way for "Magna Charta" (1215). On estates forfeited for revolts he settled the lesser nobles, as a deliberate counterpoise to the older nobility. He used these new men as officers of the king, styled sheriffs, and also as judges. He formed from the officials of the *Curia* an organized group of judges who supervised the old local courts and brought to the subjects the king's justice. By slow degrees all justice would become king's justice, and all judges would be the king's judges. In the realms of finance the king's court supervised the collection of his revenues. His reign was a despotism held in check by forms of administrative routine, and during these thirty-five years the lines of cleavage between Saxon and Norman gradually disappeared, and England became a single people.

The Church was very powerful in those earlier days, and many of the laws dealt with church affairs.

The Church had its separate Convocation and Ecclesiastical Courts.

Stephen (House of Blois, 1135-1154), Henry II (Plantagenet, 1154-1189).—Henry II, the first of the Plantagenets, initiated the reign of law. His judicial and administrative reforms were designed to check the powers of the baronage and the Church. One of the king's measures enabled the lesser tenants of the lords to commute their military service for sums of money, styled "scutage." This disarmed the barons; while the king relied on mercenaries for war purposes. Baron or priest, the basic idea was to make them *equal with others before the law*; and in the pursuit of this aim the king paid no respect to clerical immunities. Under the new system the king was to approve elections of bishops and abbots, previously within the jurisdiction of the Church, or directed from Rome. These higher officers of the Church thereafter held their lands of the king, and subject to ordinary taxes. No tenant-in-chief was to be excommunicated without the royal concurrence, nor were there to be appeals from English court decisions to the Papal See.

Henry divided England into six districts, with three itinerant judges for each; and he abolished all feudal exemptions from the royal jurisdiction. His Royal Council during the next century became the Great Council of the realm; and from it, later still, the Privy Council drew its legislative, and the House of Lords its judicial, capacity.

Henry had it enacted that every freeman was to serve in defence of the realm—knights, freeholders, and the poorer freemen. He introduced innovations

which prepared the way presently for trial by jury: while the various tests "by ordeal" already were giving way gradually to the sworn testimony, for and against, of witnesses. There had been no ordeal by battle among the Anglo-Saxons. It was introduced by the Normans as a kind of appeal to heaven for a decision. Some of these tests by ordeal may be quoted, on account of their legal and sociological interest.

(1) The unfortunate accused had to carry in his hand a hot iron, across nine paces. The hand was then sealed up for three days, and if it festered he was deemed guilty.

(2) Alternatively he had to plunge his hand or arm into hot water—with like consequences.

(3) He was bodily thrown into water. If he sank, he was innocent—if he floated he was guilty. A most discomfiting ordeal this, for it is difficult to see how he could escape extinction either way.

(4) He had to eat an ounce of dry bread or cheese—after solemn adjurations that these would choke him if he were guilty.

Richard I (Plantagenet, 1189-1199).—During his reign the bishops and nobles refused his demand for subsidies to maintain soldiers for foreign wars.

John (Plantagenet, 1199-1216).—He attempted something like a despotism, and towards the close of his eventful reign he seemed ready, on excommunication by the Pope, to subject England to the authority of Rome. The baronage, however, sturdily intervened and saved the realm from this disgrace. John, on his own authority, increased the scutage, and in addition endeavoured to tax mov-

able property. His illegal action led directly to one of those great milestones in the national journey towards the establishment of the rights and liberties of the individual.

Magna Charta (1215) denounced illegal taxation, and proclaimed that only the Common Council of the realm could tax legally. It was not entirely novel in its essentials—since the work of Henry I underlay it. It was in essence a treaty between a king and his people, for the “community of the whole land” was recognized as the great body from which the restraining power of the baronage derived its validity. In protecting themselves against the king’s injustice, the barons could not avoid also protecting their freemen against their own encroachments. *Magna Charta* expressly refers only to freemen—it does not mention the villein, the copyholder, or the labourer; yet some of the incidental provisions protected these classes in some degree. It did not institute trial by jury as we now understand that system, for a trial in those days was a matter of “swearers” for and against. *It did set up trial by the peers of the accused.* He was to be judged by his equals—a freeman not by villeins—nor the vassal by sub-vassals. A lord was to be tried, for treason or felony, only by his fellow lords.

Magna Charta in a sense involved class legislation—in that through its provisions the barons sought to maintain their own private jurisdiction, rather than strengthen that of the king’s courts of justice; yet it remains a great assertion of individual liberty, and a definite limitation of the royal prerogative. It stood for the government of laws

rather than of men; and it heralded the era of written legislation by parliaments. It has been regarded as the foundation of our statute law. It protected the poor and gave justice to all; the exaction of forced labour by royal officers was forbidden; and under-tenants were protected from the lawless depredations of lords—exactly as the latter were protected from the Crown. The townsman too secured certain rights—such as municipal privileges, justice, common deliberation, regulation of trade, and freedom from arbitrary taxation.

The internal rule of towns was in the hands of civic "freemen," but subject to certain duties which they owed to the dominant thane—since every man was presumed to have a lord. Most of these civic tenants came within the king's demesne, under a king's "reeve," who administered justice, collected rents, and exacted dues. In other cases, outside the king's demesne, the thane exercised these powers. But when his duties had been rendered, the townsman was practically free. There was to be no arbitrary seizure of person or property; and he could demand a fair trial in the presence of his fellow townsmen. Burgesses in common meeting settled civic affairs, and gradually won from crown or lord certain privileges, rights of coinage, grants of fairs, and the like. They made their own regulations for sale of goods, control of markets, and recovery of debts. In the course of time their "services" or duties to king or lord gradually lessened and vanished; while many of their privileges were purchased with hard cash. Thus began the silent but steady growth and elevation of the English people, a process often accelerated by noble

or prelate whose impecuniosities made them ready to sell immunities in return for money. Self-government, free speech, and fair trial were achieved gradually by the quiet but resolute action of English burgesses—those very determined townsmen of England.

At Runnimeade a council of twenty-four barons was chosen, whose duty it was to see that John carried out the provisions of Magna Charta—with the right to declare war on him if he failed. In one way or another this Great Charter was renewed thirty-two times, for it was one thing to get it from John, and quite another to compel later kings to respect its conditions. Its main provisions read as follows:

Clause 39.—"No freeman is to be taken or imprisoned or deprived of his property or outlawed or exiled or in any way molested—nor will we go upon or send upon him—*except by the legal judgment of his equals*, and the law of the land."

Clause 40.—"To none will we sell, to none will we deny or delay right or justice."

It also contained an important provision that the king should enact no "aids" without the common consent of the realm.

Henry III (Plantagenet, 1216-1272).—Henry threw off the temporal authority of the Pope in 1258. His reign was somewhat of a transition period—with a general consciousness slowly developing that there should be *no taxation without representation*. This period witnessed the struggle for a real parliament, the King's Council ceasing to be solely an assembly

of barons, and becoming instead an assembly of the three Estates—clergy, lords, and commons.

Henry was restive under restraints imposed by the great ministers of state, and by the National Assembly set up by Henry I. He attempted in effect to be his own minister, by nominating men who were wholly dependent upon his will. The barons were sluggish and disunited, thus allowing the king for some time to succeed in his design. His financial misrule involved one exaction after another; and loans were wrested from barons and prelates—not only to cover the expenses of wars abroad, but also for pensions to favourites and “aids” to Rome. His debts at last forced him to appeal to the Great Council; and assistance was granted on the condition that expenditure for the future was to be controlled. Incidentally the king was to confirm Magna Charta. Still his misrule continued, coupled with evasions of the provisions of the Great Charter.

At this stage the Great Council renewed its demand for a ministry appointed by the Council of Barons. Finally the barons assembled, and parliament, with the barons attending fully armed, insisted upon the appointment of a committee of twenty-four—coupled with a demand for the royal assent to the “Provisions of Oxford.” Under its terms the Great Council was to meet thrice yearly, and to “treat of the wants of the King and of his Kingdom.” For a brief period the barons held full power, but they used it unwisely, and the knights complained that the barons only sought their own advantage. Then followed the “Provisions of Westminster”—protecting the rights of tenants. These disposi-

tions, however, proved unsuccessful for the time being, and presently they were annulled by the king. • • •

Earl Simon (Leicester) now led the barons, and he clearly saw that by themselves they no longer were able to withstand the power of the king. Simon wisely made the cause of reform a national one. In 1265 parliament was assembled, containing not only the usual two knights from each county to represent the country gentry—but *also two citizens from every borough*. This involved a very great constitutional change, and for the first time merchant and trader sat beside baron, prelate, and knight of the shire. In the end parliament triumphed, and Henry's misrule ended shortly before his death. In the parliaments of 1267 the Provisions of Oxford and Westminster were renewed, the royal expenditures were brought within bounds, and it was decreed that taxation was to be imposed only by assent of the Great Council of Barons.

Edward I (Plantagenet, 1272-1307).—Edward came to the throne, after the misgovernment of Henry III, "by the will of the Peers." A great national king, at the close of his reign parliament in general outline was largely what it is now. This applied too in considerable degree to forms of administration. In a word, the long struggle for a Constitution had ended; and though there followed numerous contests between king and parliament, these did not materially affect the Constitution. No longer feudal, by 1295 parliament was composed definitely of the three Estates, and in theory each of these separately and voluntarily taxed itself. Changes in

laws hereafter were to be made only by parliament; no tax was to be imposed without the common consent of the realm; nor was war to be made without the concurrence of barons, prelates, and high crown officers.

Perhaps it cannot be definitely asserted that sovereign power—previously exercised by the king or by the king and barons—was now transferred finally to the occasional Assembly: but from 1295 the trend was definitely in that direction. For purposes of administration there were in addition the king's permanent council and the courts of law. Churchmen no longer sat in the royal courts: they retained their own ecclesiastical courts, among other things for marriages and testaments. The King's Council (distinct from Parliament) consisted of high officers of state such as the chancellor of the exchequer, the treasurer, constable, marshal; and it included some judges, bishops, and barons. They took oath to give good advice to the king, to protect his interests, to do justice honestly, and to take no gifts. Its relation to Parliament was somewhat indefinite, and at times the king acted through both as regards land, taxes, and justice. As a matter of form the king had confirmed the "three Estates," but he kept considerable power in his own hands through this Council.

The barons became "English" in character during this reign; but while their *collective* political power increased, the *personal* feudal power of the individual baron on his own estate steadily diminished. Scutage very largely had cut away his military power, leaving him much on a level with men of lesser rank. Later the barons made strenuous

efforts to regain their feudal powers, but with no great success. In point of fact Edward I lowered the baronial status not so much by direct subtraction as by raising landowners to the same level. In 1278 all freeholders having land worth £20 became knights. Edward also curbed the powers of the Church. His rule was a rule of law—not by the royal will, but by the Common Council of the realm.

In his remodelling of the law he made of the King's Council a final Court of Appeal, particularly in cases where the judges in their separate jurisdictions could reasonably be regarded as having failed to do justice. This final court also imposed a check upon baronial lawlessness, which often had defied the ordinary judges. It retained power for two centuries, and under Henry VI (1422-1461) became the Court of the Star Chamber. To-day it partially survives as the judicial committee of the Privy Council. From these judicial functions of the King's Council the Court of Chancery also originated.

Edward's courts consisted of the following:

(1) Local courts of the freeholders, originally fully competent for all civil and criminal cases.*

(2) Feudal courts dealing with relations between lord and man.*

(3) The king's central courts. These were originally courts of last resort in cases of default of justice elsewhere; but gradually they became available in all cases, and ultimately supplanted all courts which were not the king's courts. They were

* These gradually fell into disuse—especially as regards criminal cases—in favour of the King's Courts.

known from about 1250 as King's Bench, Common Pleas, and Exchequer. These King's Courts also dealt with the king's special interests in his capacity as the greatest landholder in the kingdom.

(4) The king's itinerant courts.

The judges at this time, and for some centuries to follow, were the king's servants—like his ministers; and often the monarch, owing to this circumstance, was able to interfere with the course of justice. John and Henry III themselves sat with the judges; but during the 14th century this custom came to an end, and the judges alone dispensed "the King's justice." Later again it became unlawful for a king to interfere with the courts.

Constitutional survey at the close of the reign of Edward I.—Before the Conquest all public work was paid for by monies raised locally—for justice, roads, fortresses, etc., and men served in the wars at local cost. The king's rents from his lands paid the expenses of the court establishment. The Danish wars, however, necessitated a special land tax called "Danegeld;" and the Norman kings saddled the newly created Estates with certain feudal charges. Henry II abolished the Danegeld and substituted scutage.

Revenues.—After the Conquest the king's revenues were derived mainly from land—from the royal demesne; also from wardships and marriages. Magna Charta abolished the levying by the King of "aids," for instance for crusades—except only in respect of the three recognized feudal aids; first, to make his eldest son a knight; second, to marry his eldest daughter; and, third, to redeem the king's

body from captivity. Considerable fees also accrued to the Crown in connection with the dispensing of justice in the King's Courts. Under John the "sale of justice" e.g., for the privilege of holding Knights' Courts, had become scandalous, and Magna Charta put an end to this very objectionable practice. Pardons and offices were sold, and towns were enabled to buy certain privileges. There were in addition church fees, and some customs duties were levied. The important point, however, was that for several centuries after Magna Charta no distinction was made between national and royal revenue. All moneys so collected went, so to speak, through the king's pocket. *He could spend very largely as he pleased.* Often his revenues did not suffice for his requirements, since wars were frequent in those days, and necessitated repeated applications to parliament for funds. Land taxes then were imposed, and under Henry II—for purposes of a crusade—taxes also on the rapidly increasing personal property of the people, on their houses, movables, and stock—always with the assent of the baronage. Taxes on imports arose later, and parliament granted Edward I a tax on wools exported.

Parliament and King's Council.—Meetings of the "wise men" before William the Conqueror in theory included all freeholders of land; but in fact the gatherings comprised little more than the earls, higher nobles, bishops, and the officers and thanes of the royal household. The lesser nobles had the right to attend, but the relatively heavy expense usually kept them away. The Great Council, after the Conquest, admitted as members all tenants who

held direct from the Crown—with some abbots added. It became in effect a royal council of feudal vassals, rather than a free gathering of wise men. Its functions, in the earlier stages, were little more than nominal—for it sanctioned, *without debate or power of refusal*, practically all crown demands. Still, its consent was necessary for every important fiscal or political measure; and so it constituted a species of check—if no very strong one—upon the Crown. Under Henry II its powers grew; several reforms were initiated by it; and financial issues were discussed at its meetings. Magna Charta gave it a substantial hold over taxation—in that no burden could be imposed “save by the Common Council of the realm.”

While the Great Council contained only the higher barons and prelates, its assent to taxation did not apply beyond its own bodies; and the Crown had to negotiate separately with the other bodies—the Church, the shires, and the boroughs. In the course of time there were added to the Great Council the direct representatives of these classes; and it has already been noted how the far-seeing Earl Simon added citizen representatives of boroughs—a step definitely confirmed and regularized by Edward I in 1295. The king retained a certain indirect influence over these burgesses—for he could select the boroughs to be represented, and he could increase or decrease the numbers of the boroughs. Like the lesser nobles, the burgesses found the expense heavy, and many attended reluctantly, or not at all, until the reign of Henry VI (1422-1461). Some burgesses, however, did attend fairly continuously after 1295, and they began to

take an increasing share in parliamentary deliberation, and in its work generally, in conjunction with the other orders of the state. Before the end of the reign of Edward I, the numbers of the greater barons had decreased considerably, while the lesser nobles had increased; and the landed gentry and freeholders were becoming wealthier and more important.

Hereafter, try as he might, no king of England could extract monetary contributions save by consent of his subjects; and Parliament to an ever-increasing extent became the controlling centre of the nation's affairs.

Land.—In theory the king parcelled out the land, and the holder gave service in return, military and other, also money in the form of "aids." Heirs-at-law, on taking over land, had to pay fees to the king in all cases where he was the lord, and fees also were paid him for wardship of children under age, and for marriages of wards. On the death of a holder without heirs the land reverted to the lord. No military service, in return for land tenure, was actually required by law except in the king's wars, a measure designed by English kings to curb the power of the barons.

Land now began to be leased out by the lords for fixed rents. Villeins gave certain understood services, for instance sowing, ploughing, and harvesting; but they could not leave the lands they leased, and their lords could eject them at will. These tenants could not sell cattle, or give their daughters in marriage, without the consent of the respective lords and the payment of a fee. A freeholder was

not so bound. The king was the supreme and ultimate landlord, and from this source derived the greater part of his revenues. Villeins later became "copyholders," and by the 15th century the King's Courts protected them in many ways against their lords, while their "services" as previously noted, were commuted for money payments (rents) in much the same way as the freeholder had commuted.

The king's status.—By the time of Henry III kingship had become definitely hereditary, whereas before the Conquest it was in theory elective, though the Witan usually elected a near relative of the previous monarch. These earlier kings took an oath to observe peace, to abolish evil laws and customs, and generally to "maintain the good." The form was amended from time to time, and the oath of Edward I included a proviso to "hold" the laws and customs which the people had sanctioned or made.

There was no legal process by which a king could be punished or compelled to make redress. From Henry III onward the king could not be sued or punished—for in the way stood the theory that the "King can do no wrong." If he broke the laws the people could only "petition" for redress. *Yet it was never admitted that he was an absolute monarch—or above the law.* If he acted illegally his subjects were unable by legal process to punish him: instead he "must expect God's vengeance." The great independent power of the Church in those days also tended to negative the notion of absolute monarchy—up to the Reformation. In the century then open-

ing Edward II (1327) and Richard II (1399) were compelled to abdicate—for not ruling according to the law. The “divine right of kings” did not protect them. Strictly speaking, there was no legal machinery for these depositions—unless it can be held that in the last resort there is always in the people an inherent and unexpressed right of revolt against the misdeeds of kings.

Edward II (Plantagenet, 1307-1327).—The costs of recurring wars compelled the king to approach Parliament for money, and Parliament, with its growing power, was able to bargain for redresses in return for the supplies it granted. Edward endeavoured to choose his own ministers, and trouble ensued. Owing to his evident incompetence the Parliament in 1310 entrusted the supervision of affairs of state to twenty-one “Ordainers,” and in 1311 the king had to accept their terms. His foreign favourites were banished, and the customs dues exacted by Edward I were declared illegal. Parliaments were to be summoned yearly. The Great Council was to appoint the high officers of state, and its assent to a declaration of war was first to be obtained. In all these happenings the Commons did little more than present “petitions of grievances” and grant supplies; but even so the Parliament at this time, with its three Estates, was beginning to be fairly representative of the nation. It absolutely controlled the making of those money grants in return for which the Crown yielded concessions. In 1327 the Peers asserted their right to depose Edward II as being unworthy to rule, and proclaimed his son king. A bill charged the captive

king with indolence, incapacity, the loss of Scotland, and oppression of the Church and the baronage. A parliamentary deputation visited the imprisoned monarch, and procured his formal assent to his own deposition—a proceeding which proclaimed to the world the power the English Parliament at last had secured.

Edward III (Plantagenet, 1327-1377).—Since the assembly of the three Estates at Westminster in 1295, Parliament had wrested from the Crown the last remnant of power to levy arbitrary taxation. It had forced the king to accept new ministers and a new system of government; it had claimed the right to confirm the king's choice of ministers and to punish them for their misdeeds; and it had established the principle that redress of grievances preceded grants of supply. In point of fact Parliament not only had claimed the right to punish the misdeeds of the king's ministers—it had become strong enough actually to impeach the offenders.

In this reign a great step forward was taken, when Parliament definitely divided itself into two Houses of Lords and Commons. In earlier Parliaments the three Estates—clergy, barons, and burgesses—met, deliberated, and made grants separately from each other. The clergy then began to hold aloof from parliamentary proceedings, while the knights began to mingle with the burgesses, these two classes having many interests in common. Originally the burgesses had done little more than attend to the taxation of their own class; but they gradually came into closer association with the knights, and even with the barons, in the long struggle against the at-

tempted tyrannies of the Crown. Their right to share fully in *all* legislative action was asserted in the statute of 1322. After the passing of that act no legislative step was legal unless passed in full Parliament of all the Estates—now become three by fusion of the knights with the burgesses.

The wars with France necessitated frequent appeals to Parliament for aids—as in the case of the wool export tax; and at each request Parliament consolidated its power. Whereas at earlier stages the Lords alone as a rule advised on public affairs, now the Commons strengthened their right to participate; and their contention was all the stronger in that the knights were of their body. It was again insisted that there were to be no charges or aids for the Crown save by the common assent of all Estates in Parliament assembled.

The Commons demanded and secured the right—through commissioners elected in Parliament—to audit grants already made. It was reasserted that ministers were to be accountable for any wrongs they committed, and the king was to take counsel with the Lords as to new ministers. Furthermore, these, when chosen, were to be formally “sworn in” in Parliament. *This principle of ministerial responsibility to the Houses was established by statute*, a step at this stage praiseworthy enough, but somewhat premature.

Edward was very jealous of the growing powers of Parliament, and sought to annul them, on the ground that they unduly prejudiced the royal prerogative. For two years he carried on without calling Parliament.

In 1353 a statute was passed to limit Papal powers

of interference in England; and in later years the "Act of Praemunire" was used by the Tudors with great effect. The Papacy had encouraged appeals from English decisions to the Ecclesiastical Courts in Rome; but under the new measure no judgment of the King's Courts was to be questioned—nor was any suit arising there to be prosecuted abroad. Shortly afterwards, all claims to a Papal lordship over England vanished for ever.

Edward repudiated his pledge not to resort to arbitrary taxation of imports and exports; he sold monopolies to merchants; wrested supplies from the clergy by arrangements with their bishops; and showed very clearly that he purposed ridding himself of the restraints of Parliament. "Petitions" solemnly passed by the Houses of Parliament went first to the King's Council, where the king at times was able to bring about substantial alterations before issue of the "royal ordinances" which professed to give expression to the petitions. He sought supplies for three years instead of the customary one year. In 1352-1353 he convoked occasional councils composed of one knight from every shire, and one burgess from each of a few selected greater towns—to act as a Parliament and to grant supplies. The force of events, however, shortly afterwards compelled him to abandon this method. Incidentally, he had summoned fewer barons and clergy to the Lords, in order to reduce the influence of that House. Meantime the tremendous cost of the wars with France gravely burdened England, and inevitably drew covetous attention to the great wealth of the clergy.

The weakness of the House of Lords brought the

Commons to the front. Their steady pressure secured in 1362 an enactment that no more wool subsidies were to be granted to the king without the assent of Parliament, and parliamentary petitions no longer were to be altered in the relative "ordinances." The petitions were to become statutes of the realm *as passed in the Commons*, and without subsequent alteration. The Commons, however, on occasions were still diffident about sharing in some of the greater national issues. When Edward sought their advice about making peace with France, they respectfully referred him to the Lords, and added their readiness to assent to whatever step the king and the Lords might determine.

To prevent royal nominees from too freely entering Parliament the Commons succeeded in securing that knights were to be elected, and not merely nominated by the king's sheriff; also that sheriffs were not to sit in Parliament. The Commons at last had become something approximating to a national assembly. It was now very generally regarded as an honour—instead of an expensive and burdensome duty—to hold a seat in the House. Henceforward the Commons took a more direct part in the great affairs of state. It was enacted too that the chief offices of state no longer were to be given always to the leading bishops—but were to be placed in lay hands.

In 1373, after a disaster to English arms in France, the king demanded still further subsidies; and *for the first time the Commons requested a conference with the Lords*—when it was arranged that certain supplies were to be granted, but that *these were to*

be spent only for war purposes. As one result the king called no Parliament for two years—until the empty treasury compelled a summons. The “good Parliament” assembled, so called because of its work in opposition to the misrule of the Crown. In the recent past the barons had opposed the Crown whenever such a course seemed necessary; but now that body, reduced in numbers, was not unusually on the side of the king. Only with the Commons now remained any peaceful means of redress; and their old reluctance to join in major affairs of state was swept away. One hundred and sixty petitions for redress preluded an attack upon the King’s Council. The Commons denounced abuses of justice, mismanagement of the war, and oppressive taxation. At the same time they demanded an accounting of recent expenditures, and they gave clear indication of their increasing power by impeaching some of the royal ministers.

In 1377 a new form of tax was imposed—a poll tax of a groat a head—thus bringing home to the humbler people the inevitable pressures of war. Soon afterwards it was enacted that the Royal Council was to be “named” in Parliament, and to be chosen from the Commons as well as the Lords.

Richard II (Plantagenet, 1377-1399).—The wars necessitated repeated calls for money; and in granting supplies Parliament continued to consolidate its power. But the Commons in conceding fresh subsidies set aside the proceeds specifically for war purposes, and appointed two members to regulate the outgoings. Later the Commons forced the Royal Council to submit the accounts for scrutiny,

and appointed a commission to inquire into the crown revenue.

"Serfage" at this time gradually was dying out. Attempts were made to restore obsolete personal services, but these failed. The Peasants' Revolt occurred in 1381—the villeins stoutly resisting the reactionary efforts of lords of manors to restore feudal labour services. The movement for enfranchisement extended, and within the next one hundred and fifty years villeinage passed away, and in its place arose a class of small freeholders. All this was brought about in the teeth of steady opposition from the selfishly interested wealthier classes.

In 1397 the Commons prayed for redress of the court profusion, a protest which greatly incensed the king. Richard had extraordinary ideas about the divine right of kings, and he strove incessantly to make himself absolute. He contended that he personally could frame or amend laws, and that the life and property of every liegeman was subject to the royal will. In France such exercise of absolute monarchy might have been practicable, but not in England. Shakespeare's magic hand sketched the royal idea of kingly authority as this misguided Plantagenet probably conceived it:

Not all the water in the rough rude sea
Can wash the balm from an anointed king;
The breath of worldly men cannot depose
The deputy elected by the Lord.
For every man that Bolingbroke hath press'd
To lift shrewd steel against our golden crown,
God for his Richard hath in heavenly pay
A glorious angel.

In the event the angelic assistance was lacking, and Richard was deposed.

In 1399 he was compelled to surrender the Crown to Henry of Lancaster, and in this unhappy fashion the long reign of the Plantagenets came to an end. Henry, speaking in effect for the realm, addressed the royal prisoner in the Tower thus: "Your people, my Lord, complain that for a space of 20 years you have ruled them harshly." A formal resignation of the Crown was wrested from him, and this was accepted by Parliament—which confirmed its acceptance by a solemn "Act of Deposition." His coronation oath was read over, and a lengthy impeachment set out categorically his breaches of its undertakings. Then by a vote of both Houses Richard was removed from the state and authority of king. Parliament proceeded formally to recognize Henry of Lancaster as king, and the latter in emphatic terms ratified the compact between himself and the people. These momentous events marked the triumph of Parliament over the monarchy. Richard had attempted to supersede Parliament by a commission dependent upon the royal will, and he had failed signally. His successor was pledged explicitly not to renew any such attempt; and he took the throne under a parliamentary title. Never before had Parliament been so powerful.

Henry IV (Lancaster, 1399-1413).—In 1404, increasing subsidies were needed, and the Commons suggested some confiscations of church property. The Lords, however, succeeded in quashing the proposal, and a new subsidy was voted by the Commons.

Henry V (Lancaster, 1413-1422), Henry VI (Lancaster, 1422-1461).—In 1451 the Commons sought

the removal of Somerset and his creatures from the entourage of the king, but Henry evaded the issue and dissolved Parliament, virtually announcing his resolve to govern in defiance of the national will. A resort to arms became inevitable, and the king's forces were defeated. Richard of York, who had acted once or twice as "Protector" during the king's mental lapses, then put in a claim to succession at the king's death—this in priority to the king's boy son. His over-confident claim, however, challenged the right of Parliament to determine the succession, and this the more so because Henry held a legal title by the free vote of Parliament. Richard then took the wiser course of convening the two Houses, and laid his claim before the Lords *by way of petition*. The Lords compromised on a difficult point. They declined to dethrone Henry; but they had sworn no fealty to his child, and they agreed that Richard presently should succeed Henry. Richard meantime spoilt his own cause by his overweening pretensions, and so strengthened public sympathy for Henry. In a battle that ensued, Richard was slain, but his son Edward later renewed the contest and won the battle of Towton. In 1461 young Edward of York became Edward IV of England, and in this unsatisfactory manner the Crown passed from the Lancasters to the House of York.

Constitutional survey at the accession of Edward IV.—At the commencement of the Wars of the Roses England was under a limited monarchy, with little or no trace of absolutism. The long duel between king and Parliament, since Edward I, seemed to have ended with Parliament virtually in control

and national liberty assured. Step by step there had been established freedom from arbitrary taxation, arbitrary legislation, arbitrary imprisonment; and the highest officers of the Crown had become responsible to Parliament and to the law of the realm. The Wars of the Roses resulted in grave disturbance of these newly won liberties and rights, continuing through the next century.

With the accession of Edward IV parliamentary life was almost suspended, since its meetings became a mere form under the overpowering influence of the Crown. The legislative powers of the two Houses were largely usurped by the Royal Council. Arbitrary taxation reappeared in "benevolences" and forced loans. Arbitrary imprisonment was actively resumed—aided by a formidable spy system. Justice was degraded by a prodigal use of Bills of Attainder. A wide extension was given to the judicial powers of the Royal Council—its evils accentuated by the servility of judges and the coercion of jurors. Later again the Tudors extended this unfortunate system, converting it to something very like complete despotism. Yet, bend and strain the law as they might, all kings of England sooner or later had to admit the restraints of the law.

In consequence of these untoward developments the character of the monarchy—from Edward IV (1461) to Elizabeth (1603)—reveals a strange and unique experience in our history. The primary cause was the recovery of the older strength of the crown; and to this recovery several factors contributed. Previously the monarch had been hampered by recurring needs arising from frequent wars with France, and occasionally with Scotland, and later

from the insecurity and clashes set up by disputes over the succession. The king perforce had to appeal again and again for money, and he had to yield to parliamentary demands for redress or concessions. Then the wars abroad ended, while the civil wars removed doubts about the succession. As one consequence the royal treasury no longer was so depleted as to leave the king very largely at the mercy of the Commons. The treasury was filled as never before by the forfeitures and confiscations arising from the civil wars. After the battle of Towton, twelve great nobles and over one hundred knights and squires were stripped of their estates for the king's profit.

Edward IV and Henry VII encountered no financial stresses such as constantly had beset Edward I and his six successors. These two kings were wealthy as no previous kings had been since Henry II. Neither would go to war, for fear of jeopardizing this condition, with the probable consequence of necessary appeals to Parliament. Not even the threatening growth of French power could stir them, and they clung to peace even to the point of national humiliation. Edward IV secured a grant *for life* of customs (tonnage and poundage)—and so made the Crown in large degree financially independent of Parliament. He personally traded on a vast and profitable scale in ships, tin, wool and cloth. Henry VII was his own treasurer, kept his own accounts, and personally supervised the collection of the "compositions" which were levied upon the western shires for their abortive revolts. Under conditions of peace and a full treasury there was no

actual need to summon Parliament; and the consequent virtual collapse of the power of the Commons amounted almost to a revolution. Hitherto the Commons had intervened successfully in the administration of the state: they had directed the application of subsidies, they had called the royal ministers to account by repeated impeachments, and under Henry VI they had established the point that parliamentary petitions were not to be altered when moulded into statutes by the Royal Council. But under Edward IV the very action of Parliament almost came to an end; and no laws aiming at improved conditions for the people were even proposed. Parliament itself became factious and weak, as a result of the civil wars, and for a time it was little more than a gathering of mutually hostile nobles and their partisans.

The Lancastrian title to the Crown, originally established by Parliament, was annulled as an act of usurpation; and the House of York based its claim to succeed upon the plea of the incapacity of Parliament to set aside nearness of blood in questions of succession. Under such conditions the accession of Edward IV was in effect a crushing defeat of Parliament. Itself no longer needed for the granting of supplies, and weak with internal factions, it became easy for the monarch to rid himself of the check hitherto imposed by the two Houses.

Other circumstances favoured the monarchy at this stage. Whereas the earlier feudal kings had to face strong rival powers in the baronage and the Church, at the close of the Wars of the Roses these salutary restraints upon the kingly power for practical purposes no longer existed. As the Commons

grew in authority, the influence of Church and baronage declined; and the irregular action of the latter had been replaced by the legal and continuous action of the three Estates. The Renaissance too aroused the minds of men, particularly the laity, to wider ideas; and this not only weakened the power of ecclesiastical tradition, but fostered the recognition that feudalism in some of its aspects amounted to anarchy. Gunpowder struck a fatal blow at feudalism, for the armoured knight and his fortress no longer were able to withstand artillery, and the foot soldier became the important factor in war. As the king controlled the artillery, this advantage greatly strengthened him against the baronage. Monasteries no longer were the recognized and almost exclusive seats of learning; the general repute of the Church fell, and the high prelates tended to lean towards the Crown, because of threatened attacks upon church property. They were discouraged too by the continuance of Lollardry.

In addition the continuance of peace and the steady growth of wealth greatly assisted the York and Tudor kings, for the monarchy became identified in the public consciousness with prosperity. It stood in the nation's view for social order and a bulwark against feudal outrage under the barons, who had become lawless and dissolute, especially during the Wars of the Roses. Parliament had become degraded into camps of armed retainers; judges had been overawed; and elections had been controlled by brute force. Many of the barons maintained armed "liverymen," mostly ex-soldiers returned from the wars abroad, idle and lawless.

Even judges and sheriffs at times were afraid to meddle with these retainers, bearing as they did the insignia of the great baronial houses. Such lawlessness had not been absent before, but it came into full force during the Wars of the Roses. The accession of Edward IV in large measure put an end to this social unrest and insecurity—yielding some order and protection for the realm. English commerce and wealth grew rapidly; and about this time the system of jury trial began to take its present form by the separation of jurors from witnesses. Jurors were beginning to be judges of fact, after hearing the parties, the witnesses, and counsel—very much as is the custom to-day.

There was, however, much discontent among the labouring classes, culminating in the protracted peasants' revolt. It survived till towards the close of Elizabeth's reign, when the rapid increase of industrialism absorbed the surplus labour. This discontent and the antagonism between employer and employee bound the wealthier classes to the Crown. Both employer and proprietor were satisfied to surrender some of their freedom to the one power able to preserve them from social upheavals. To their selfish attitude the temporary despotism of the monarchy largely was due. Parliament was weakened also by the fact that the Crown, the nobles, and the great landowners controlled many of the boroughs and dictated the choice of representatives. If necessary this was done by corruption or force, a malign precedent which was acted upon until the days of Pitt. The ruin of the baronage and the weakness of the prelacy broke the power of the House of Lords; while the restriction of the franchise to men owning

property worth £2 per annum—the “40s. freeholder”—disfranchised all leaseholders and copyholders, and temporarily paralysed the Commons. With the victory of Towton the restored prerogative power of the Crown renewed itself.

Edward IV (York, 1461-1483).—With loss of reverence for the Church, and the disappearance of the binding feudal ties, the nation's leaders—lay and spiritual—turned almost inevitably to selfish personal ambitions and this especially during the Wars of the Roses. Time was needed to create new bonds, and to build up a sense of duty towards the nation as a whole, and of responsibility for its good order and welfare. The result was that Edward became almost an absolute monarch—a state of affairs to which the extreme weakness of Parliament partly contributed. The great Warwick and the barons, at the accession of Edward IV, had become very powerful; and the young king, outwardly friendly, set himself with quiet determination to curb their power. Warwick, enriched by grants of several Lancastrian estates, was immensely wealthy, with ample military resources at his command. His personal power almost overshadowed that of the State, and he himself was extremely ambitious. The king patiently bided his time, and then came out in definite opposition to Warwick's plans. After some sharp reversals of fortune on both sides, Edward finally triumphed.

During the closing years of his reign he introduced an elaborate spy system, with free use of torture, and did not hesitate to interfere with the dispensation of justice. His reign was a sinister

prelude to the still more arbitrary rule developed by the Tudors.

Rich in his treasury, Edward called no Parliament for five years, and when at last he did summon it, the Houses were not permitted to do much more than grant customs duties to the king for life. He supplemented the resources of his treasury with sums extorted from the clergy, and with sales of monopolies. The king himself turned merchant, with lucrative results, while confiscations arising from the recent civil war filled the royal coffers. For purposes of raising loans he no longer sought the consent of Parliament: he personally met the merchants and levied from them gifts or benevolences. The citizens protested without avail, and in later times Charles I and Wolsey adopted the undesirable precedent thus set.

To his credit, be it said, Edward was a patron of Caxton, who did so much for learning by bringing the art of printing to England.

Edward V (York, 1483—a child).—His claim to the throne was set aside by Parliament, under pressure from Richard of Gloucester—on the pretence that he was the fruit of an unlawful marriage. Parliament then prayed Richard to assume the Crown.

Richard III (York, 1483-1485).—There was much public discontent. The citizens of London petitioned the new king against the current extortions and impositions. As they manfully expressed it, they preferred death to the existing "thralldom." This finely courageous readiness to sacrifice personal safety for a principle has helped to give England her honourable place among the nations.

Richard endeavoured to reconcile the people by convoking Parliament in 1484, when he suggested some sweeping reforms. Benevolences were declared illegal, several enactments were designed to protect English commerce, and there were to be no more seizures of goods before convictions for felony. Unfortunately for this movement towards reform, two circumstances at this time had completely estranged the nation from the king. One was the murder of the two young princes in the Tower, supposedly under Richard's orders: and the other that in 1485 he unmasked his real purpose by demanding further benevolences, in defiance of the recent statute. Henry Tudor—with a somewhat slender claim upon the succession—landed from France, received wide support, and Richard was killed at the battle of Bosworth. Henry VII and the House of Tudor succeeded. They enjoyed a lengthy and in many ways splendid tenure of the Crown, not however without some of those blemishes which so often attend the uncontrolled although successful exercise of power.

Henry VII (Tudor, 1485-1509).—Ascending the throne as he did upon a very disputable hereditary claim, Henry found himself unable to trust the great nobles; for his title was based upon a victory that had been in the nature of a surprise. Out of the fifty-two peers he ventured to summon only a part for the Parliament which assembled after his coronation, and which gave its formal recognition to his tenure of the Crown. The relative act did not mention hereditary rights, or rights based upon conquest, but simply declared him king, with succession for his issue. Here was another instance of

a title conferred by Parliament, and Henry for his part admitted that he was king by the will of the people. Inwardly he aimed at something like a dictatorship—but that was a later development.

The defeated Yorkists worked up several revolts, one or two of which threatened to be formidable; but the very general desire for peace, and the national horror of civil war, worked potently for the Tudors.

Henry, like Edward IV, was wealthy, and could afford to neglect Parliament, summoning it only on rare and critical occasions. Parliament granted subsidies for wars, and Henry evaded the fighting—thus accumulating funds in his treasury, supplemented by a host of petty extortions. Benevolences were revived, and heavy fines were levied from participants in the revolts. Henry at his death bequeathed a hoard of two millions to his successor. He enforced with severity the statute of Edward IV against the military retainers of the barons, for this purpose utilizing skilfully the criminal jurisdiction of the Royal Council.

The "King in Council" always had asserted his right thus to deal with subjects too powerful for the ordinary courts. He systematized this special and occasional jurisdiction in 1486 by appointing a committee of his Council as a regular court—the famous (if at times also infamous) Court of the Star Chamber. His action was confirmed by parliamentary statute. In this Court were no juries—thus ignoring the right of the accused to trial by his peers. Henry VIII at a later stage used this Court as an instrument of tyranny in such way as virtually to lay justice at the feet of the monarchy.

The Renaissance at this time enlarged the minds of men—under the influence of the revival of Greek and Latin literature. Lingering remnants of mediaevalism and scholasticism were swept away, together with the allegorical and mystical theology of the Middle Ages. "For the first time men opened their eyes and saw" (M. Taine). Travel, science, literature, art—were cultivated with new and enthusiastic energy.

Constitutional survey at the close of the reign of Henry VII—after twenty-four years of peace.

Parliament consisted of: (1) *House of Lords*. In 1509, at the accession of Henry VIII, the clergy in the Lords comprised two archbishops, eighteen bishops, and twenty-seven abbots. In earlier days there had been far larger numbers of abbot members. In the reign of Edward II there had been only earls and barons representing the temporal lords: but with the later kings there came in marquises, dukes, and viscounts—titles borrowed from the Continent. Under a weak king, such as Henry VI, the Pope, contrary to English acts, filled the vacant spiritual offices; but under Henry VII only the king's nominees secured these positions.

(2) *The Commons*. Candidates came under the following categories:

- (a) Each shire elected two knights or notable squires capable of becoming knights. They were paid 4s. per day. No yeoman or lesser man could be a candidate.
- (b) Two citizens from each *City*, but not from *Towns*.

- (c) Two burgesses from each Borough who were paid 2s. per day.

In the reign of Henry VIII the Commons contained 298 members, 224 from cities and boroughs, and 74 from the shires. Notwithstanding the fact that they were in a marked minority, the knights were the dominant working element.

The king personally decided whether to summon Parliament—and when.—Parliament could not meet until he issued the writs. On his own initiative he could prorogue, suspend, or dissolve Parliament. He it was who assented to statutes, and so gave them full legal validity; and he also enjoyed certain indeterminate powers through the proclamations and ordinances of his Royal Council. The Lords in theory “treated with the King,” and gave him their counsel. The knights and burgesses in the earlier stages did not treat with the king: practically they attended merely in order to assent to what was determined by the “Common counsel of the realm.”

From 1295 (Edward I) meetings of Parliament became more frequent. In 1322 (Edward II) all legislation was to be effected by the king with consent of prelates, earls, barons, *and commonalty*. In 1330 (Edward III) *annual* Parliaments were decreed; but nevertheless there were no sessions in 1364, 1367, 1370, 1373-76, 1387, 1389, 1392, 1396, and 1407-10. Edward IV in twenty-two years only summoned Parliament in six of those years; while Henry VII only called the Houses together seven times in twenty-four years, and twice only in the last thirteen years. It was one thing to decree

annual Parliaments, but quite another to induce kings to obey the rule.

The King's Council.—Since Henry II the monarch was able to issue ordinances—through his permanent Council. In the case of Henry IV the Council consisted of three bishops, nine peers, and seven commoners. The Council at times was a serious rival of Parliament, but its precise powers and scope are not easily determined.

It was admitted by Parliament during the 14th century that the "King in Council" enjoyed certain *legislative* powers. He could not revoke or alter a statute—but *for temporary legislation on details* ordinances might suffice, a very difficult line of distinction to draw in practice, and one likely to be abused. The King's Council advised him on ordinances, licences, and pardons, and also on some aspects of finance, such for instance as the raising of loans. The king was apt to utilize his Council freely when the Parliament was weak; and the existence of two such concurrent powers inevitably led to disputes. Richard II gravely overdid the ordinances, and even went the length of overruling statutes. In 1389 the Commons protested—but Richard persisted and was deposed.

To this Council the king appointed whom he pleased; he dismissed it at will; and he was under no obligation to consult it unless he wished. Under an infant king the Council virtually ruled. Altogether it was a strangely indeterminate body—with varying powers according to the relative strengths of the King and the Parliament. Under Edward IV and the Tudors, for instance, the Council was the

pliant instrument of the king rather than any restraint upon his powers.

The Council also acted in a judicial capacity, with the king's chancellor in control; and this notwithstanding that Parliament sought again and again to restrain its judicial activities. Under Henry VII the Court of the Star Chamber was instituted, and its action at times led to much trouble. The Council Court acted rapidly and without much formality. Some Parliaments actually encouraged its jurisdiction, because it could deal with an influential offender, where venal common juries might have hesitated to condemn. It was the only Court which used torture, such for instance as the rack and the thumbscrew. The Court of Chancery also arose from the judicial powers of the Royal Council. Persons who could not obtain justice elsewhere from an early period had brought petitions to the Council. These petitions were usually given to the chancellor for his attention, as he originally always had been an ecclesiastic, and therefore was considered to be the member of the Council best capable of giving relief in a court of conscience. The chancellor thus gained a jurisdiction of his own, and he or the Master of Rolls regularly sat in the Chancery Court to give relief in accordance with their ideas of equity and good conscience. This Court by degrees evolved a set of more or less fixed principles, and equity thus became a body of law, and not merely the personal discretion of the chancellor for the time being.

The judicial functions of Parliament vested in the Lords, a power in which the Commons never sought

to participate. The jurisdiction of the "King in Parliament" had become synonymous with that of the House of Lords. Their scope embraced:

(1) The trial of peers charged with treason or felony.

(2) The correction of errors of all lower courts—on points of law, not on facts.

(3) The hearing of impeachments. The first case was that of Lord Latimer in 1376 (Edward III). Lesser offenders were dealt with in the ordinary courts.

The "Act of Attainder" was legislative, not judicial—even though it might involve death or forfeiture. From 1459 onward several men were attainted. No one of the ministers of Henry VIII was impeached, but when he wished to destroy an enemy, or a too powerful servant, he used the Act of Attainder.

Statutes.—A statute in theory is *the king's act, done with assent and by the authority of the Lords spiritual and temporal, and the Commons in Parliament assembled*. This form was used for the first time, in the preamble of an act, in 1433. The authority was from the whole Parliament, and in this way the Commons at last were placed on the same footing as the Lords—all advised, assented, and authorized. Not until the era of the Tudors, when the Middle Ages may be said to have ended, did the inferior status of the Commons begin to disappear—though in theory it had been admitted for some time, from early in the 14th century, that their assent was necessary *together with that of the Lords*.

Bills in Parliament.—Earlier legislation, as we

have seen, was by "petition" from the Commons, and frequently, after the petition had gone to the King's Council, that body, in settling the wording, intentionally altered the meaning. In 1414 (Henry V) it was conceded by the king that this would not occur again, and then began the practice of the Commons *to send to the king a completed bill for the royal assent*. The king retained the power to refuse or dissent. *Le Roi le veut* meant assent: *le Roi s'avisera* meant refusal.

The executive or governmental power resided in the king. At the same time there had to be officers of state to carry out the detailed work of administration, and in the Middle Ages a strong Parliament practically itself appointed the king's ministers. Yet the king was the "ruler"—the commander of Army and Navy, entitled to lead in person in the case of the army—the national treasure was his treasure—and he could appoint and dismiss all public officers such as the chancellor, the judges, sheriffs, and others. He was their direct overlord and responsible for their work. The unavoidable outcome of all this was a very unstable condition, for the essential meaning and authority of kingship was in a state of constant alteration, from Edward II to Henry VIII.

Taxation.—By 1350 (Edward III) it had become definitely illegal for a king to impose a *direct* tax without parliamentary consent. The course of *indirect* taxation is more difficult to follow. In the 12th century there were customs duties on wool, wine, and general merchandise. Magna Charta had laid it down that merchants were to be freed from unjust

exactions, and only certain ancient and "right" customs were to stand. In 1362 it was decreed that no subsidy or charge was to be laid upon merchants or anyone else without the consent of Parliament, and a similar decree was made in 1371 as to wool and leather. The contest between King and Parliament ended in 1400 (Henry IV), *and thereafter all taxation vested in Parliament alone.*

It may be noted that under the Tudors the evil was not so much that the kings taxed without parliamentary consent—but rather that a weak Parliament condoned their illegal acts. For instance, the benevolences wrongly levied by Henry VII in 1491 were condoned by Parliament in 1495. A benevolence was a sum more or less compulsorily levied by the king from certain subjects. It was sardonically styled a "freewill offering," but if the subject failed to pay, the subsequent proceedings were apt to be intensely uncomfortable for him. Parliament began to impose taxation during the reign of Richard II (1377-1399), and grants were made by the Commons with the assent of the Lords. To this method Henry VII expressly assented. All the laity were taxed in this way, but the clergy, with their own machinery of government, continued for a time to tax themselves separately.

Expenditure.—Parliament had begun to dictate how the king should spend the supplies they granted.

In 1340-1 (Edward III) Parliament in theory was entitled to watch expenditures, but anything like effective supervision was difficult to enforce. Parliament asked for the production of some of the royal accounts.

1348. Parliament made special grants for prosecution of the war against Scotland—"ear-marking" the funds for that purpose.

1353. Further grants were set apart for the war.

1377. Two delegates were appointed by Parliament to receive these revenues, and to see to their expenditure for war purposes.

1379 (Richard II). The king presented accounts, and thenceforward "Treasurers of Subsidies" were appointed regularly, to watch over accounts and to keep Parliament advised.

1390. A 40s. duty on wool was granted, of which 10s. was for the King's needs and 30s. for prosecution of the war. Other provisions of this type followed for later kings.

1406 (Henry IV). The Commons appointed auditors. Parliaments at this period were often deplorably weak, and quite inadequately exercised their right to supervise the king's spendings.

Sheriffs.—In the 12th century the sheriff was little less than a provincial viceroy, controlling within his particular area the judges, police, fiscal matters, and the military. Then new institutions and authorities came into being and gradually overshadowed these officers of the king—first the itinerant judges, and later the Justices of the Peace, with the result that the sheriff's County Courts sank to dealing only with petty debts. He no longer controlled the police or attended to the collection of taxes. Under the Tudors a Lord Lieutenant commanded the military, and the sheriff became an annual appointee, with duties circumscribed to little more than executing the judgments and commands of the courts.

Henry VIII (Tudor, 1509-1547).—For many reasons this reign was one of the most remarkable in the history of England. The Middle Ages practically disappeared, under the double impact of the rebirth of learning and the Reformation. Printing had just been introduced; artillery became effective; America had been discovered; and the historic strength of the Roman Church in England began to pass away.

The king at his accession was young and accomplished. He encouraged the new learning. He became popular by checking extortions—although he would presently practise these to an exceptional degree. The wars with France quickly dissipated the hoard left by Henry VII, and the new monarch began to drain his subjects' resources with demands for repeated subsidies and exactions. Wolsey came into power as Henry's minister, and gradually was permitted to concentrate both secular and ecclesiastical power in his own hands. In effect he set aside the other great prelates and lords in the King's Council. At his fall his powers in effect passed automatically to the king, and his personal rule had accustomed England to his system. This virtual transfer of authority was facilitated by the fact that the nation had realized that the powers Wolsey exercised existed by virtue not of himself but through his function as Henry's minister.

In 1522 the second war with France necessitated the calling of Parliament. During the first war the king had summoned Parliament three times, but not once in the succeeding seven years. Wolsey had kept the treasury in funds with levies of benevolences—and by a system of assessment of large sums collected from the counties. The war was

unsuccessful, and Wolsey in 1523 called the Estates together in order to present to them a request for the unprecedented sum of £800,000—by means of a suggested novel property tax of 20 per cent. His proposal was received with obstinate silence, and Wolsey was forced to give way, and a little later to be satisfied with less than half the sum. He also summoned the clergy to a national synod, but they too showed independence, and declined to assemble otherwise than in their own separate convocation. The dispute ran on for four months, and was settled by a compromise. Although both Parliament and Church in many respects were weak and submissive, at no stage did they lose the outward forms of authority, or become actually slavish.

In 1525 it was sought to levy further benevolences on both laity and clergy, but these attempts were resisted stubbornly. Signs of the general unrest appeared in labour strikes, and there was great public dissatisfaction over the failure of Wolsey's policy in the matter of England's claims upon the French Crown. Wolsey again had to give way.

A new and irresistible influence began to quicken the natural love of law and freedom—an influence which was destined to ruin the structure of absolute monarchy erected by Edward IV and the Tudors. Martin Luther in 1517 had nailed to a church door in Wittenburg his denunciations of abuses in the Catholic Church—particularly the indulgences and the Pope's power to remit penalties for sins committed. After 1520 he denounced the Papacy itself. At this stage Henry's sympathies were with the Pope—both politically and on grounds of faith. His

denunciation of Lutheranism led Pope Leo to reward him with the title of "Defender of the Faith"—a gift which showed some lack of prophetic instinct in the giver. The scholars and thinkers of the "new learning" in England, with their wider and more tolerant views, were opposed to the bitterness and intolerance of Lutheranism, but a flame had been lit in religious circles by the reformers, which was destined never to die away. Lollardry as a matter of fact never had been quenched in England, and the followers of Wyclif, under William Tyndale, became ardent supporters of Luther—though as yet their numbers were small. The movement grew steadily, notwithstanding repressive measures, although these were not very harshly applied, since Wolsey's aims and interests were political rather than religious.

In 1525 Henry began to press the Pope to sanction the divorce of Catherine of Aragon, in order to enable him to marry Anne Boleyn. He was encouraged by Wolsey's promises of success for his petition at the Vatican. Wolsey had dissuaded Henry from independent direct action within his own realm, and later the king became enraged over Wolsey's failure to secure the assent of Rome. The nobles too were bitterly incensed at their own virtual exclusion by Wolsey from effective participation in the work of the King's Council, while the clergy had not forgotten his extortions or the suppression of certain small monasteries in order to enrich the treasury. Unfortunately for the great minister, he was equally unpopular with the Protestants and the merchant classes.

In 1529 Wolsey fell, and the king assumed control without even the Church to curb his will. There were sporadic uprisings of the people,¹ but these were easily and ruthlessly suppressed, and some of England's noblest went to the block. For ten years, under the iron ministerial rule of Thomas Cromwell, blood flowed freely, and the country was panic-stricken. Parliament assembled to do little more than legalize acts of unscrupulous tyranny. Nearly all constitutional safeguards were swept aside, and there supervened an era of arbitrary taxation, arbitrary legislation, and arbitrary imprisonment unsparingly used by the Crown. Since William the Conqueror this Tudor decade may be regarded as the highest point reached by personal monarchical rule in the history of England.

Both Henry VII and at first his son carried on their government through ecclesiastical ministers, but after Wolsey's fall the king gave the seals to a layman, the great Thomas More, assisted by two lords. Because of the King's rapidly growing debts, Parliament was summoned in 1529, and afterwards there were repeated reassemblings until his death. Instead of looking upon Parliament as a danger—as Edward IV, Henry VII, and Wolsey had done—the king felt himself strong enough to use it as a tool. Parliament submissively paid off the king's debts, and supported him in the divorce proceedings—this partly because the nation deeply resented the inferiority implied in repeated appeals to Rome by a king of England.

In 1529 Parliament, instead of continuing to recognize the autonomy of the Church Convocations and Ecclesiastical Courts in the spiritual realm, took

the entirely novel course of itself reforming the Church, not for disloyalty to doctrine, but because certain practices appeared to need correction. The fees of the Ecclesiastical Courts were curtailed, the clergy were debarred from lay employment, pluralities were restrained, and residence was enforced.

Thomas Cromwell, a greater than Wolsey, had become Henry's minister—once more the appointment of a layman. He urged the king to disavow the Papal jurisdiction—to declare himself the head of the Church in England—and to obtain the divorce in his own Ecclesiastical Courts. Henry was quite determined upon the divorce, but still hoped to secure the Pope's concurrence. He fell back upon Cromwell's advice later.

While Cromwell's methods were ruthless, and at times cruel, he harboured no personal enmities, and his aim—if quite unconstitutional—was not an ignoble one. He schemed to raise the authority of the Crown to absolutism, for the ultimate enlightenment and order of the realm, by the concentration of power in the king, including authority over the Church. Up to this time Englishmen held a curious double allegiance—to England and to Rome, though Parliament was beginning to show resentment about interferences by the Papal See in English affairs.

In 1531 the clergy were compelled in their own Convocations to agree to pay—no doubt with extreme reluctance—a fine of one million pounds, and to admit that Henry was the head of the Church in England. In 1532 the Church was curbed further by bringing to an end—again with its own compelled assent—the right of separate legislation in

Church Convocations, except with the royal concurrence. Then Parliament by statute forbade appeals to Roman courts, and the king was empowered to suspend the payment of certain fees hitherto made to the Papal See. *In this way all judicial and financial connexion of the English Church with the Papacy was broken.* Here was a serious challenge to Rome; but still Pope Clement, embarrassed by political difficulties at home, delayed and hesitated over the divorce for which Henry increasingly was pressing.

Early in 1533 Henry was married privately to Anne Boleyn, and a little later the English Church, led by Cranmer, determined in convocation that Catherine's marriage had been void. This legitimized the marriage of Anne Boleyn, and set aside the claims to succession of Catherine's daughter, Mary. In 1534 the Parliament by enactment validated the marriage of Anne Boleyn, and gave succession to her issue—the girl Elizabeth, while the Pope strongly denounced these proceedings. At this time Henry was still a Catholic and opposed to Lutheranism, but Cromwell's sympathies were beginning to move towards the Protestants.

Parliament year after year submissively endorsed the king's proposals, and in 1534 they passed the "Act of Supremacy," by which all authority in matters ecclesiastical vested solely in the Crown. The "courts spiritual" became the king's courts as much as those at Westminster, and every prelate became a nominee of the king. In 1536 about 375 of the smaller religious houses were suppressed, and their revenues were transferred to the Crown. Only priests licensed by the Crown could preach,

and under Cromwell's stern administration every preacher was given specific instructions how to preach. They had to direct their discourses against the usurpations of the Papacy, and in favour of the king's headship over the English Church. This enslavement of the clergy stirred England to the depths—for Cromwell's repressive measures were regarded as intolerable tyranny. He had spies everywhere, commissioned to detect disloyalty and to make secret denunciations. As Erasmus said: "Men felt as if a scorpion lay asleep under every stone." Silence alone ensured for the citizen some measure of safety. The coercion of juries, with the influencing of judges, made the courts little more than the mouthpieces of the royal will. At the same time Bills of Attainder were issued one after another by a subservient Parliament. Still the struggle for spiritual freedom, begun by Thomas More, never was entirely extinguished. It was fought out presently by Protestants against Mary—by Catholics against Elizabeth—and by Puritans against Charles I.

Cromwell held almost all the administration in his own hands. He was foreign minister, home minister, and, like Wolsey, though himself a layman, he was vicar-general of the Church. He was the creator of the new fleet, the organizer of English armies, and the president of the Star Chamber.

In 1536 Anne Boleyn was charged with adultery, and executed. In 1537 the king married Jane Seymour—who died in giving birth to a son, later Edward VI.

Henry and Cromwell then busied themselves with the further reformation of the Church—without

however attempting anything very revolutionary. They aimed at simpler doctrine—the purification of worship—and generally at purging Catholicism of superstitions. Purgatory and pardons were condemned, and the theory was pressed that religious truth in England issued from the king. Notwithstanding his personal opposition to Lutheranism, the king was driven towards it by force of political necessity, and virtually he was compelled to an alliance with the Lutheran princes of north Germany. At this time Protestantism was growing steadily in England, and its devotees did not hesitate to make strong attacks upon the practice of the Mass.

In 1539 the Parliament *weakly conferred upon the king's proclamations the force of statutes*—a grave retrograde step. They also granted him the power of disposition over the greater monasteries, and Henry promptly suppressed 645, with vast consequent enrichments of the Treasury. Then parliament, somewhat alarmed, began to oppose religious innovations, and there arose something of a general reaction. The penalty of burning was determined by statute for denying transubstantiation, and it was to be a felony to refuse to attend or to confess Mass—with the result that many Protestants were indicted. Cromwell, though ready to restrain what was regarded as Protestant excesses, did not wish Protestantism to be destroyed, and a little later these indictments were quashed. One result was to estrange the king from Cromwell, and this encouraged other members of the Council at last to lift their voices against the overbearing minister.

In 1538 the Pope excommunicated Henry. In

1540 Cromwell, for reasons of policy on the continent, manoeuvred Henry into marrying Anne of Cleves—sister-in-law of the Lutheran Elector of Saxony. Henry never forgave Cromwell—because of Anne's coarse features and unwieldy appearance. He turned upon his minister; the Council savagely supported the attack; and Cromwell was attainted, and died on the scaffold.

The monarchy was at the zenith of its power. The Lords were cowed and spiritless, while the Commons were little more than the creatures of the king. Royal proclamations took the place of parliamentary legislation, and benevolences to an increasing degree displaced parliamentary taxation. Justice had been forced under the king's heel, and Henry had made himself the head of the Church. This amazing fabric of royal power was largely the work of Cromwell, and at his death it began to crumble. He had not himself feared Parliament, or attempted to suppress it; rather he skilfully marshalled it, and made it subservient to the royal will. He deliberately preferred to use the veil of the supposed popular assent. By parliamentary statutes the Church was protected, and by Bills of Attainder, approved by Parliament, such nobles as it was deemed desirable to remove were sent to the block. The nation's faith was defined, and the monasteries were despoiled in order to enrich the treasury. Parliament, under skilful direction, regulated the succession and declared on the king's marriages; while the king himself freely used Parliament to attain his queens or ministers. All this parliamentary activity was permitted by Cromwell only on the condition of its complete servility.

Notwithstanding its virtual degradation the spirit of Parliament never entirely died, and, at any rate its outward forms were preserved. "At Cromwell's fall the tide of liberty once more began to flow. The powers of the Crown declined during the minority of Edward (aged only nine at his accession) and the unpopular reign of Mary, while older forms and realities of freedom developed rapidly into more vigorous being. Some of the confiscated church lands had been apportioned to a new nobility which had strengthened the House of Lords. The subjection of the Church gave Protestantism an opportunity to spread—although its adherents still remained small in number. Every Protestant was an opponent of the tyranny of Henry VIII, and when presently the Crown turned Protestant, every Catholic became an enemy.

In 1540 Henry repudiated Anne of Cleves, and married Catherine Howard—thus bringing to the front the Catholic house of Howard. He still desired a reconciliation with the Church in connexion with the cases of Catherine of Aragon and Anne Boleyn. In 1542 Parliament passed a Bill of Attainder against Catherine Howard for adultery, and she went to the block. Henry then married Catherine Parr, and the Catholic bishop Gardiner replaced the Howard noble, Norfolk.

In 1543 Henry endeavoured to betroth his son Edward to the infant Mary Stuart of Scotland. He was unsuccessful—yet the attempt opened a prospect that led later to the union of England and Scotland. In 1545 Henry again was penniless, because of wars with France and his own extravagance, and this notwithstanding the enormous sums

raised from the dispossessed monasteries. He did not wish to summon Parliament, and instead resumed the levying of benevolences. At the same time the decline in returns from war taxation drove the King's Council to fresh acts of confiscation. In 1545 more than 2000 churches and 110 hospitals were suppressed, and their revenues were transferred to the treasury. In addition there was perpetrated an unprecedented and unpardonable debasing of the currency.

In Europe the Emperor Charles still was waging war upon the German Lutheran princes, and though Henry was Catholic at heart, for reasons of national policy he offered to help the latter. The princes, however, doubted his good faith, and declined his help. For various reasons the religious situation in England was becoming complicated. Henry's government leaned towards reconciliation with Rome, and if the Protestants suffered for denying the Mass, Catholics also suffered for denying the king's supremacy. England was leavened very slowly by the Protestant spirit, and many Englishmen, like their king, were blind to its deeper significance. They only saw in the general situation the angry clamours of disputants, and themselves entertained a strong aversion from persecution on either side. In addition there was growing throughout the nation a widely felt desire for national unity. In 1545 a "Heresy" bill passed the Lords, but was promptly dropped by the Commons. Round the dying king were gathered nobles eager for power and for the supremacy of their faith, Catholic and Protestant. When Henry passed away, gravely

troubled times were in prospect for the country for some years to come.

Edward VI (Tudor, 1547-1553—aged nine at his accession).—A Protectorate was appointed with Somerset, the young king's uncle, in control, while Bishop Gardiner was carefully excluded from the Council. Owing to the existence of a newly created nobility there were now about fifty peers in the Lords, giving that body some renewed authority. Somerset, in order to make his own regime safe, felt that he ought to reduce materially the possible exercise of royal absolutism, and accordingly the act which had given statutory force to King Henry's proclamations was repealed. At the same time, the Statutes of Treason framed by Cromwell were abolished. Somerset came out openly on the side of the Protestants, with Bishop Cranmer supporting him. Prohibitions against Lollardry were repealed, and all pictures and images were ordered to be removed from the churches. Priests were allowed to marry, and a statute compelled the use of English in the services—in place of the Latin which had been identified with Catholic supremacy. The Mass became a Communion of the whole Christian fellowship, and the priest became the mouthpiece of the congregation, and not the official mediator between God and the worshipper. As some one aptly said: "The laity was called up into the chancel."

English adhesion to Protestantism came very opportunely, for that cause at the moment was nearly ruined in Europe. Many Protestant refugees from European countries came to England, while Scotland, too, was turning rapidly to that faith. In

England Somerset and his colleagues pressed religious changes injudiciously, and Bishop Gardiner hotly denounced as illegal everything done during the king's minority. He was sent to the Tower. Licences to preach were granted only to friends or nominees of Cranmer, and a number of chantries and religious guilds were suppressed—enabling Somerset to satisfy the greedy new nobility with the lost spoils of the Church. In consequence of these over-rapid and unwise changes there ensued a general discontent throughout England—especially over the spoliation of religious houses and a further debasement of the currency. There were revolts, which served still more to render Somerset and his rule obnoxious to the nation. In 1549 he was arrested, was refused a trial, and was sent to the block.

Warwick succeeded as Protector, and unfortunately perpetuated Somerset's methods. He attempted fixations of prices, coupled with still further currency debasement. On the other hand, he quickly suppressed the revolts. The Protestant cause was sadly smirched because of the greed of the new nobility, whose members exercised considerable power in the Council of the Regency. They strove to fill their own pockets at the expense of the state, and made no worthy effort to win the nation to the cause. Something approaching a reign of terror prevailed for a time, and the country was helpless under the reckless energy of the reformers, with their persecutions of Catholics. As a matter of fact, much confusion prevailed in the public mind with

regard to the rival religions. The Council continued its hazardous policy, relying on foreign mercenaries to sustain its power, and so leading to the further alienation of the nation's sympathy. The Parliament, however, was not so submissive as in the last reign, and in 1552 Warwick had to adopt every device at his disposal to secure a Parliament so elected as to carry out his designs. He issued writs to his own nominees, who were forced upon newly made constituencies. This "packing" of Parliament set an unhappy precedent which was revived in later reigns. The young king was a fanatical Protestant, and it is difficult to conjecture what would have happened had he survived. He died in 1553, aged fifteen, and unfortunately for England a bigoted and merciless Catholic came to the throne.

Mary (Tudor, 1553-1558).—Mary succeeded in packing into her brief reign about as much disaster as one person in this world conceivably could bring about. In the event her misguided and bloodthirsty efforts to establish Roman Catholicism by force, actually succeeded in making the Protestant cause secure. At her accession a Catholic reaction became a certainty—but few could have forecasted how far her fanatical severities would extend. The reckless regime of the Protectorate had welded the sober elements of the nation into some unanimity of thought; and as yet the average moderate man did not perceive any very fundamental distinctions between the old faith and the new. In so far as he identified the disgraced Protectorate with Protestantism, that cause in his eyes suffered deterioration.

The ill-fated Protestant effort to place Lady Jane Grey on the throne had been checked promptly—in favour of Mary, whose title rested on parliamentary statute.

Bishop Gardiner was released from the Tower, and became Chancellor. Other Catholic prelates were restored; the Protestant Ridley was expelled; Cranmer and Latimer were sent to the Tower; married priests were ousted from their churches, and images were replaced. The new English Prayer Book was set aside—after a struggle in Parliament, when the defeated minority showed considerable strength. Mass was restored, and Parliament annulled all Protectorate laws bearing on religion. So far England in some degree was in sympathy with Mary, though there began to appear dissentients who feared her deeper aims. Parliament abolished the new treasons and felonies instituted in the last two reigns, and turned strongly towards the old national historic church; but it declined to go the length Mary desired in seeking to restore Papal authority in England. To gain her ends Mary expressed the wish to marry Philip of Spain. Parliament and the nation, however, strongly opposed—not so much on grounds of religion, but rather as a matter of national pride. The Houses respectfully asked her to wed an Englishman. Their remonstrance was novel in parliamentary history, and became an important precedent. The incident also showed that Parliament no longer was the slavish tool of the monarchy. Protestants naturally were greatly alarmed, because a marriage with Philip inevitably would mean persecution for them. The new nobility, too, were apprehensive for their

recently acquired estates. There were sporadic risings in England, which failed; and one unhappy consequence was the sending of Lady Jane Grey and several others to their doom. Elizabeth was committed to the Tower, because of her supposed sympathy with the Protestants; and only the anxious intervention of the Council saved her life from the ruthless temper of Mary. Leading Protestants fled overseas, and for the moment their party seemed to be crushed.

Mary then exerted pressure to secure compliant members for a new parliamentary session. Finally a vote was secured in favour of the Spanish marriage, which was solemnized at once. Philip came to England, and, like Mary, was determined to bring about England's spiritual submission to Rome. With that end in view he lavished gifts on the Lords; and the Council again used every electoral device to secure a favourable House. By a formal vote the two Houses resolved that the nation return to obedience to the Papal See—*with the reservation that the present holders of former church lands were not to be dispossessed*—a condition obnoxious both to Mary and Philip. The growing independence of Parliament was shown in their refusal to alter the succession so as to oust Elizabeth; while the nation generally was strongly averse to persecutions. But the fierce bigotry of Mary heeded no restraints or warnings—even from her calmer and more experienced husband, and a terrible era of persecution began. In 1555 Hooper was burned at the stake, with a number of others; then Latimer and Ridley; and altogether about 280 suffered death at this time, mostly by burning. Englishmen, however,

were made of stern material, and these merciless severities did not crush their faith: on the contrary the heroic deaths of their leaders only served to strengthen Protestantism. Every martyr at the stake won hundreds to the cause. At this stage Philip had to leave England, as the resignation of his father (Charles V) made it necessary for him to take over the dominions in Europe then assigned to him.

The new Pope Paul was a fanatic who would accept no compromises with England. He embarrassed Mary by insisting upon the restoration of the church lands—a point the Lords certainly would not concede. Mary's harshly intolerant nature urged her to further persecutions, and she sent Cranmer to the stake. This startled and widely alarmed the nation, and virtually sealed the doom of Catholicism in England. Mary, still unsatiated, pressed on her reckless course. She re-established some of the abbeys, thus alarming the new nobility. Contrary to her express promise, she assisted Philip in his war with France—leading up to the loss of Calais for England—deeply hurting the national pride. Both the Council and the nation showed a growing dislike of Mary's schemes. She essayed a forced loan, which yielded returns very slowly, and her treasury was empty.

In 1558 Elizabeth once more was sent to the Tower—for alleged complicity in certain incriminating correspondence with the king of France, but the Lords of the Council presently secured her release. She watched calmly the increasing misrule under Mary, and no doubt there developed in her mind at this time a determination—whenever she

came to the throne—to put an end to the incessant internal warrings which had characterized the reigns of Edward and Mary. She was determined also to secure complete independence from Rome for the realm of England.

Mary's persecutions were renewed, and under her direction a commission was appointed for the suppression of heresy. It was expressly exempted by royal charter from all restraints of law. The Commission was aimed at the lesser folk, who in consequence went to the stake in batches, including women. This work of terror, however, broke down under the indignant condemnation of the whole nation. The Commission failed even to stop the so-called "heretical" worship. Pope Paul still haughtily demanded the restoration of church lands—deeply galling Mary. Her death shortly afterwards ended her disastrous five years reign—with the country at its lowest ebb both internally and externally. England's only ally, at any time a very doubtful one, was Spain. There was trouble on hand with France, which held Calais, and also with Scotland and Ireland. The treasury was empty, and the country rent by distractions and persecutions.

Elizabeth (Tudor, 1558-1603).—A very able woman, peculiarly constituted, but undoubtedly a great monarch for England at an extremely critical time. She was indifferent to dogmatic aspects of religion, and instinctively disliked extremists in either camp; yet the force of events definitely established Protestantism during her reign. Her natural bent was towards the new learning rather than towards religion, and in the interests of good government

she sought busily for reasonable compromises. Her steady aim was public order. At her accession she stayed all persecutions; prisoners for religion were released; and nonconformity no longer was punishable with death. During her reign no "heretic" went to the stake. She readily conceded liberty of religious *opinion* to all—but this did not apply to *public worship*, where uniformity was deemed desirable.

At first she disappointed the more ardent Protestants by making few changes, and she herself even attended Mass. She retained some of Mary's ministers in the Council, but brought in the great Cecil as her chief adviser—and Cecil was a Protestant. Elizabeth realized clearly that she was in political difficulties, and wisely decided to move cautiously. Philip offered to marry her, but the proposal was put aside courteously—while for national reasons she welcomed his friendship.

She also sought the goodwill of the Holy See, by formally announcing to Rome the fact of her accession. On the other hand, she was quite determined to maintain her own lawful succession, and also the supremacy of the Crown in England in matters of religion. Pope Paul, however, was equally determined upon the spiritual supremacy of Rome, and also upon the restoration of the church lands. He lost for Rome a great opportunity—and his stubborn attitude at last turned Elizabeth to Protestantism. With Paul the divorce of Catherine of Aragon stood in the way of his recognition of Elizabeth, and Elizabeth not unnaturally, like her father, turned instead to the English Parliament. The Houses in 1559 confirmed her title, also the supremacy of the

Crown over religion in England. The independent jurisdictions of the Church once more were annulled, and the clergy were compelled to admit the supremacy of the Crown. Elizabeth for the present would go no further, and the general good sense of England supported her; but at the same time the breach with Rome had thrown Elizabeth definitely and finally into the Protestant camp. Mass was abolished, and the use of the English Prayer Book was restored. Bishops who declined to take the oath attesting the queen's supremacy were deprived and imprisoned, but the lesser clergy were not specially pressed, and only comparatively few were dismissed. Clergymen were given the right to marry; vacant sees were filled by the returned exiles from Geneva and elsewhere; the plunder of churches by nobles was stopped; and at last the religious turmoils and confusions began to settle down. In 1561 Elizabeth's refusal to send delegates to the Pope's Council at Trent marked the definite adhesion of England to Protestantism. For the moment the Catholic discontent and the claim of Mary Stuart of Scotland to succeed to the English Crown, were Elizabeth's principal dangers. For national reasons she was averse from marriage—either to a Protestant or a Catholic—because she feared to disturb that delicate balance which she so consistently sought to maintain in the interests of unity within the realm.

In 1562 Pope Paul denounced the use in England of the Book of Common Prayer rendered in English. As one result some of the Catholics ceased to attend worship, and were heavily fined as "recusants." The Pope, temperamentally too much of the despot

and too little of the diplomat, seemed unable to avoid unwise interferences. By way of reply to Paul, the English Parliament in 1563 introduced a series of repressive measures—particularly the "Test Act." Under its provisions it became necessary for all holders of office, excluding only the peers, to take an oath of allegiance to the queen, and a formal abjuration of the temporal authority of the Pope. The act applied particularly to the clergy, but incidentally it excluded every zealous Catholic from participation in the administration of the realm. On its passing it was said in Rome that "Elizabeth had drawn the sword."

The intellectual impulses of the time, and the growing wealth of the people, gradually were reviving the independence of the nation generally, and of Parliament in particular. Elizabeth was wise enough, under the guidance of the very capable and moderate Cecil, to mitigate considerably the encroachments of the Crown upon national rights and liberties. There still remained some straining of the statutes, some coercion of juries in political trials, arbitrary imprisonments by the Council, arbitrary taxation, and proclamations issued with the force of statutes—but all this with a certain cautious moderation. To some extent Elizabeth placated the nation by abandoning benevolences and forced loans. Her thrift enabled her to keep current expenditures within the ordinary revenue; and thus she avoided calling Parliament together regularly. Parliament at this time was renewing, slowly but steadily, its sense of power; and Elizabeth set herself dexterously to neutralize, by clever management, an opposition she felt she could not

overawe. She was too sensible to attempt to "pack" Parliament as Mary had done. The country gentry were growing in wealth and independence and at last they began to evince a desire to secure seats in the House of Commons—as something both honourable and desirable. One result of this attitude was that payments to members ceased. The struggle with Catholicism—kept alive by the questions at issue with Mary Stuart and Philip—compelled Elizabeth to resort to Parliament, and consequently strengthened that body. As her appeals for funds multiplied, so the independence and importance of Parliament steadily increased.

The Lords joined the Commons in a petition to the queen that she should marry—so as to settle the question of the succession—an issue always disturbing while Mary Stuart's claims remained unanswered. Elizabeth characteristically evaded the point, with a promise which no doubt, in her own mind, she did not intend to fulfil. The mere request, however, indicated the growing strength of Parliament. At this particular juncture the country was in serious jeopardy, for trouble was brewing with Scotland and Spain, and a revolt was active in Ireland. Ireland had to be subjected. Mary Stuart ruined her own and the Catholic cause in Scotland by marrying Bothwell, a Protestant and the reputed murderer of her first husband, Darnley. She furthermore sanctioned laws which established the Reformation in Scotland. Mary abdicated in 1567, in favour of her son, and the babe was solemnly crowned as James VI of Scotland—later to become James I of the two realms.

The Papacy and Philip still remained to be

handled—and in their eyes Elizabeth at this stage was assumed to be definitely allied with Protestantism. Pope Pius had succeeded Paul. Pius had been an Inquisitor, and was a ruthless persecutor of heresy, determined to restore the temporal power of Rome throughout the world. He recognized special danger to the faith in England, for without England's sympathy and active aid Protestantism was likely to collapse in Europe. Philip was in a difficult position. Politically he was in sympathy with England, especially whenever the ambitions of France were likely to become dangerous, but on religion he sided with the Papacy against England. He himself at this time encountered desperate Protestant resistance in the Netherlands. Pope Pius unwisely forced the situation by issuing a bull in 1569, declaring Elizabeth a heretic, and to be deposed. The document reasserted Papal claims to a temporal supremacy over all princes. It went too far, and many English Catholics declined to recognize its validity. In the north, however, some of the Catholic nobles made an abortive rising. They had been in secret correspondence with Mary Stuart, who at this time was a virtual prisoner in England. Then for the first time Elizabeth broke her self-imposed rule of systematic clemency. In the north the number of Catholic recusants increased, and Parliament in alarm passed Acts of Attainder against the northern Catholic nobles. It was made treasonable to introduce a papal bull into England—or to call the queen a heretic—or to deny her right to the throne. All magistrates and public officers were bound to subscribe to the Protestant articles of faith. As one consequence there ceased

to be any Catholics either in the Council or in the House of Commons—though as yet Catholics in England outnumbered the Protestants. Norfolk, the Catholic leader, was arrested and executed, followed by Northumberland.

The nation greatly desired internal harmony. In their view Elizabeth stood for peace and good order. A strong nation-wide loyalty towards her was growing—with gratitude for her fourteen years of sound government and peace. Among other remedies she had stopped, under the wise guidance of Cecil, the debasement of the currency. Social discontent was dying out, and the problem of unemployment gradually was solving itself. Many of the unemployed were absorbed by the rapidly increasing commerce and industry, especially in woollen goods, others by the growth of improved methods in agriculture; while others again were cared for by wise provisions for local responsibility in cases of actual poverty. England enjoyed and profitably used the peace, and the nation did not fail to realize that, while men were constrained as to forms of public worship, they enjoyed unmolested freedom of conscience. The Pope's bull, however, inevitably stirred up fresh religious trouble—for it brought to the front the fanatical Puritan, with his easily inflamed activities. This was specially noticeable in Parliament, where some additional religious reforms were passed. The queen, eager always for peace and good order, commanded the chief mover (one Strickland) not to appear in Parliament again, but this involved altogether too strong an invasion of parliamentary privilege. Elizabeth recognized the determination of the House, and wisely gave

way. She judiciously but quietly curbed the worst excesses of the Puritans, and England almost unconsciously became predominantly Protestant. Their English patriotism and their personal loyalty to Elizabeth made it comparatively easy for many moderate Catholics to recognize the existing regime, but with the more bigoted the papal bull inevitably brought about trouble.

In 1579 a general "Act of Uniformity" was passed, with the result that in many English pulpits the clergyman replaced the priest. Then a young priest, Cathcart Mayne, was caught carrying into England the bull of deposition. For political, quite as much as for religious reasons he was executed, and persecutions once more loomed upon the horizon. Elizabeth intensely disliked religious persecution—but behind the Mayne case was the Papal threat of dominance over England. Under pressure of political circumstance and national feeling, Elizabeth took open action. She sent both men and money to help the Protestant cause in the Netherlands. When she presently allied her country to France, Philip at last, his patience exhausted, broke the Spanish alliance with England. He was goaded to this not only by constant pressure from Rome, but also by indignant Spanish merchants, owing to the persistent plundering of their vessels on the high seas by English seamen. The Pope became particularly busy in the stirring up of trouble in Scotland and Ireland against the arch-enemy England, and two thousand soldiers supplied by the Pontiff landed in Ireland, only to meet immediate failure. Jesuit emissaries arrived in England, and enlisted the active sympathies of many Catholics.

The Protestants took alarm, and a religious struggle, so long kept in abeyance by the queen, became inevitable. Protestants had increased considerably in numbers and influence, and when they saw the work of fanatic Catholicism in Europe, they became the more incensed against Rome, and turned instinctively towards rigorous Puritanism.

Parliament, aware that the Spanish Armada was preparing, passed an act in 1581 under which Jesuits were seized and tortured, recusant Catholics were imprisoned, and Mass was prohibited even in private houses—with other repressive severities. The vigorous and at times ruthless pursuit of Catholic priests stamped out for the moment any chance of a Catholic revival. During the next twenty years about two hundred priests were executed, and others perished in prison. Rome now was at open war with England, and Philip was Rome's willing ally and instrument. In England the recently increasing loyalty of Catholics towards the Queen was checked, and their religious fervour grew under persecution—just as Protestant fervour had grown under Mary's persecution. At Elizabeth's death the Catholic cause sprang again into life and vigour. Meantime, however, the country generally deeply resented the aggressive actions of Rome and Philip. The nation overrode the queen's hesitations and pronounced resolutely for war with Spain—then the most powerful nation in the world.

In 1586, in consequence of attempts on the queen's life—assumed to have been instigated from Rome—all Jesuits were banished from England on pain of death. Mary Stuart was charged with secretly abetting these attempts. She was judged

by a commission of peers, and found guilty. Elizabeth was averse from her execution, but the indignant nation insisted upon the full rigour of the law. Her execution united the English Catholics in opposition, and roused both Rome and Philip to prompt action. Philip looked confidently for a Catholic rising in England on the landing of Spanish troops from the Armada, and in 1588 the great Armada sailed. The threat of invasion, however, called all England to arms, and Catholic lords joined the camps, or put to sea, as eagerly as the Protestants. There were few exceptions, even among fanatical Catholics, and all religious strife for the time being was stilled. In consequence, the fate of the Armada was sealed before it sailed, for, even if successful at sea, the Spanish troops would have had no chance of success on land against a united England. With its defeat at sea, the political skies cleared for England at home and abroad, and the country realized that it owed much to the patient and temperate action of the queen throughout all the recent alarms and disturbances. The defeat of the Spanish attempt restored England to a position of recognized power in Europe. Furthermore, she had sprung suddenly into a great sea power, with the result that the maritime dominance of Spain and her greatness began to pass away.

Philip stubbornly made a second attempt by sea, which was rendered futile by storms, and he stirred up another abortive rising in Ireland.

Meanwhile Parliament had been growing steadily in strength and stature. The earlier Tudors had attempted to treat such questions as the succession,

the Church, and trade as being within the competence of the Crown, but before Elizabeth's death Parliament had concerned itself with all these interests. Three-fourths of Englishmen were now Protestant, and Puritanism, strengthened by the bitter struggle with Rome and Spain, deepened its convictions and stern determination. England was united and intensely patriotic—with no further fears of foreign aggression, and her recently created sea power laid open for her the waterways to the great new western continent.

Hitherto English literature had lagged behind that of Europe, but under the triple impulse of the Renaissance, the Reformation, and the defeat of Spain, it forged ahead brilliantly. Its annals were adorned by such names as those of Edmund Spenser, Bacon, Marlowe, and pre-eminently, Shakespeare.

James I of England and Scotland, and previously James VI of Scotland (Stuart, 1603-1625).—The Stuarts strenuously and unwisely sought to restore absolute monarchy, and succeeded instead in completely establishing the supremacy of Parliament. Politics with the Stuarts meant a ceaseless struggle to exalt the Crown, and any means which tended in that direction seemed to them justifiable. That their misguided efforts were more likely to steel the determination of Parliament was apparently beyond their powers of comprehension. Their reigns constitute an era upon which Englishmen cannot look back with pride.

Feudalism had passed away, and the new nobility to a considerable degree had taken the places of the

great baron families. The squire, enlarged in wealth and importance, in all but name equalled the peer he superseded. There also came into the reckoning the increasingly important merchant trader, both squire and trader greatly strengthening the Commons in comparison with the Lords. The awe of kings slowly but steadily was fading away under the increasing sense of the importance of the nation and the individual—this especially after the signal defeats of Rome and Spain. Education was spreading rapidly, with a distinct leaning towards theology, under the practically universal use of the new English Bible. "The nation became a church"—with Puritanism in the ascendant. So strong was this school of thought that in James' first Parliament the Houses *for the first time* refused to transact business on Sunday. Puritans, stern and intolerant, did not believe in the personal and arbitrary rule of an individual. In the last analysis they submitted themselves rather to the Divine Will. This was not loyalty as the Tudors had regarded it, and still less as the Stuarts conceived it. Puritan loyalty directed itself largely to the law of the land, and also to the nation as represented in Parliament, rather than to kings or queens. For the Puritan the royal power must be constitutional—under the law: and Milton at this time was one of the great exponents of this rigorous creed.

James, himself a Calvinist by conviction, dreaded Calvinists as opponents of the royal prerogative. A scholar, and superficially clever, he was for all practical purposes a fool. "The wisest fool in Europe," as Henry IV of France described him. He never really understood Englishmen, and both

he and his Stuart successors attempted to rule England by reference to Scottish or other external methods. Like the Bourbons, he forgot nothing and learnt nothing. "He seldom said a foolish thing and never did a wise one." He had no gift for selecting the best in Puritanism, and no ability to check its narrowness and intolerance. Poor material, all this, for the making of a king at a singularly critical time.

The union of the English and Scottish crowns pleased the nation, as being likely to lead to prolonged peace, while Protestants and Catholics alike had some grounds for expecting sympathy from James. The Royal Council, on Elizabeth's death, acknowledged him as king, without one dissentient voice.

He feared the Catholics because they might question his title, and in seeking to placate them with concessions—although without any intention to revive Catholicism—he incensed the nation. He added to the unfortunate effect by reversing in other directions the policy followed by Elizabeth. He was unwise enough, for instance, to threaten the Puritans with compulsory conformity.

He governed Scotland separately, there being no *political* union of the two realms; and the quality of his actions in his native country increased at later stages the alarm of England. His first Parliament (1604) asked for certain religious reforms, but the king induced the Lords to reject the request. The Commons respectfully reminded the king that he possessed no absolute power in such matters, and they met coldly his request for a subsidy. In 1605 three hundred Puritan pastors were driven from

their livings for refusing to observe certain rites and ceremonies. At the same time the Catholics were disappointed with the king because of his vacillating policy, and the Guy Fawkes plot followed—at their instigation. The narrow escape of King and Parliament from a common peril helped to support the cause of the Crown, and in 1606 Parliament complied with the king's request for a subsidy. Elizabeth at her death left a crown debt of £400,000, and the reckless prodigality of James, in the maintenance of a profligate court, was adding rapidly to this sum.

James by "*proclamation*" in 1606 levied certain duties on merchants, and the Commons promptly protested. The Exchequer Courts slavishly supported the king. "All affairs of commerce and treaties with foreign nations," they said, "belong to the king's absolute power." For the moment the Crown had scored over Parliament—the Commons still warmly protesting; but James did not put the Court's judgment into immediate effect—and for the time being the new imposts were not levied. Elizabeth had used proclamations sparingly, and as a rule only to enforce existing law, but James foolishly overstepped the mark by issuing a number of proclamations creating new offences and penalties. He also interfered with the administration of the civil courts, and against the Crown the judges were powerless. The king sought to be above the law, and in the Star Chamber Court he said: "As it is atheism and blasphemy to dispute what God can do—so it is presumption and a high contempt in a subject to dispute what a King can do, or to say a

King cannot do this or that." The inevitable result was that throughout England there arose a deep distrust of the king.

In 1608 James, again by proclamation, put into effect the imposts which the courts had sanctioned two years earlier. Large collections of revenue followed, but the king's extravagance easily outran the treasury resources. Parliament was summoned in 1610—at a time when renewed religious outbreaks in Europe had rendered it very advisable that king and Parliament should act in something like unison, in the general interests of England. Furthermore the treasury was empty. A reasonable compromise was suggested by Robert Cecil, but the king was stubbornly obdurate—and Parliament was dissolved by him in the next year. Among other disturbing features the Commons had insisted strongly that ecclesiastical and financial matters pertained to Parliament rather than to the Crown. King and Parliament stood definitely opposed to one another, and the Tudor unity had passed away. James claimed a greater personal and exclusive power than any of his predecessors on the throne, and in the contest which inevitably ensued the nation loyally backed Parliament.

For the Tudors the Royal Council was a great and continuous aid in administration, and at times acted as a useful restraint upon the royal will. James virtually excluded the lords of the Council from participation in state affairs. He sought instead to rule through his own personal authority, with the aid of a few dependent ministers. He aggravated this unfortunate situation by the unwise choice of worthless favourites, to whom almost unlimited

power was given—especially George Villiers, later created Duke of Buckingham.

In 1614 the crown debt was £700,000, and the treasury had been drained dry. Parliament was summoned, and the elections proved widely adverse to crown candidates. The Commons refused supplies until the recent impositions were removed, and certain church abuses were remedied. Nothing was settled, however, and James in anger dissolved Parliament—incidentally committing four leading members to the Tower. For the next seven years he carried on without Parliament, finding funds by further levies made by proclamations, notwithstanding that the crown law officers had advised him confidentially that these were illegal. Benevolences were barred by statute, but the king's urgent necessities drove him to break the law, and to enforce these collections from the richer landowners. The resultant revenue, however, was disappointing—because of stubborn opposition. These and other abuses completely alienated from James not only the nobles but also the gentry and the merchant class. In the hope of influencing the Lords, he created forty-five new peers—as a rule by money bargains. Here it may be apposite to mention that in the next two reigns Charles I created fifty-six, and Charles II about forty-eight new peers.

In order to avoid assisting the Protestants in their rapidly approaching troubles in Germany, James began to link up his policy with Spain—thus humiliating England by his failure to support Protestantism. He strongly urged the marriage of his son Charles with the Catholic Infanta of Spain, and at the back of this manoeuvre was the desire to avoid

the expenses of war and the consequent need to summon Parliament. The nation was disappointed and deeply irritated—and became additionally alarmed at the prospect of a Catholic queen for England. When the religious war broke out in Europe, England clamoured to assist the Protestants and to declare war on Spain—the latter partly in order to break the marriage scheme. Spain temporized with James, purposely protracting the marriage negotiations, but really concerned to keep England from going to war. James at last had to summon Parliament in 1621, but too late to assist effectively in Europe, where the Protestants had suffered heavy defeat. James asked Parliament for supplies—but meantime clung obstinately to his Spanish policy. Parliament granted small supplies, but, to the king's anger, refused the larger sums which had been sought. At last the exasperated Parliament expressed its intense disapproval of James' policy by turning upon those to whom the king illegally had sold certain monopolies. These were cancelled, and Parliament then successfully impeached several high officers of state and nobles to whom the king had bartered offices and peerages, and at the same time they denounced benevolences.

James, perversely blind to the growing warmth of the national temper, dismissed those ministers who opposed his Spanish policy—though on this question he stood alone. The reassembled Parliament demanded war with Spain and a Protestant marriage for Prince Charles. The king was deeply incensed, and threatened the parliamentary leaders with committal to the Tower. He sent for the journals of the House of Commons, and with his own

hands tore out the offending pages. He dissolved Parliament, and kept his treasury going with further forced benevolences.

The attempt to marry Prince Charles to the Infanta failed, and all England rejoiced. Buckingham at this stage dominated the king, and he finally persuaded the latter to declare war upon Spain. Buckingham and Prince Charles had just returned from their unsuccessful visit to Spain—humiliated by the break of the marriage negotiations at the instance of the Spanish authorities. James called Parliament together—war was approved, supplies were voted, and some persecution of Catholics in England was resumed. The nation had desired naval operations only; but Buckingham's reckless ambitions favoured a land campaign—also an alliance with France, strengthened by the marriage of Prince Charles with Henrietta of France. Once more there loomed up before the nation the prospect of a Catholic Queen for England. James had undertaken definitely not to arrange a marriage for his son with a Catholic, and on that promise had obtained supplies from Parliament. He broke his undertaking, and the marriage was arranged. In the event it proved disastrous for the Stuarts, owing to Henrietta's imperious temper, and her fatal influence upon Charles.

Buckingham's war effort proved an ignominious failure, and the disappointment hastened the end of James, already disillusioned and conscious of failure in many directions. He had destroyed the Council, he had completely dissipated the enthusiastic loyalty that so staunchly had supported the Tudors, and he had degraded the judges in the eyes

of the nation. The royal authority at which he had grasped passed to the Parliament he had insulted and outraged. On its side, Parliament had asserted successfully its right to tax, to suppress monopolies, and to reform legal abuses. It had impeached and driven from office high officials of the Crown, and it had put in a formal claim for the right to deal with religion and all other important matters of state—including foreign policy.

Constitutional survey at the death of James I (1625).
—Parliament was becoming steadily more independent, and though as yet no substantial changes had taken place in the text of the law, there had been material progress in parliamentary customs. In contrast to his predecessors James had been lavish in creating lay peers, and bishops were by custom the king's nominees. Whereas previously the House of Lords had been predominantly spiritual, it now contained a majority of lay peers.

Membership of the Commons had been increased recently by the inclusion of Welsh representatives, also by new county and borough representatives in England. Of the last two classes, Edward VI had added forty-eight, Mary twenty-one, Elizabeth sixty, and James twenty-seven. At times this gave the king a certain power over the Commons, as he often was able to influence the elections. "Copyholders" still had no votes, but the membership of the Commons—previously regarded as a burden to be evaded—was now an honour to be desired. The clergy still voted their taxes separately, in their own Convocations, but since 1540 (Henry VIII) *the Parliament passed acts in confirmation of the*

ecclesiastical resolutions. The clergy had been compelled to admit the royal supremacy, and their Convocations in 1534 undertook to make no further ecclesiastical canons without the king's licence.

Privileges of Parliament. Freedom of speech.—From the Middle Ages freedom of speech on the floor of the House—without hindrance from the king—had been admitted and observed, with a few individual exceptions. In 1376 (Edward III) Peter de la Mare, Speaker of the Commons, was imprisoned for certain utterances in Parliament, and in 1397 (Richard II) one Haxey made a speech attacking the king. He was condemned by the Lords, but later was pardoned on a petition from the Commons. In 1453 (Henry VI) the Speaker, Thomas Thorpe, was incarcerated for a strong indictment of the Duke of York. In 1512 (Henry VIII) one Strode was imprisoned for introducing certain bills. Parliament shortly afterwards annulled the proceedings, and in this way the statutory recognition of freedom of speech was maintained. In 1541 (Henry VIII) the Speaker, in opening the session, for the first time explicitly claimed freedom of speech as being, with other features, an undoubted right and privilege. The point was contested in later years, but was never for a moment abandoned by Parliament. James I committed four members to the Tower in 1614, and also a certain Sandys in 1621; and he informed the Commons that their privileges existed only by his sufferance. Great protest was made by the indignant Commons, who stoutly reaffirmed their rights.

Right of Commons to originate money bills.—It was

the function of the Commons to grant subsidies, but the subsidy itself required *a statute enacted by the King, the Lords, and the Commons*. In 1593 the Commons resented a message from the Lords to the effect that Elizabeth wanted money. They claimed that it was the function of the faithful Commons on their own initiative to supply the legitimate needs of the sovereign. Usually the Commons were said to grant *with the consent of the Lords*. In the reign of Charles I the present formula was adopted, i.e. that the Commons grant a tax; and thereupon it was enacted by the king, with the advice and consent of the Lords, that the tax be imposed. It was not until after the Restoration that the Commons contended that the Lords could not amend a money bill—that they could only accept or reject.

Disputed elections.—The Commons successfully claimed the right to determine these—a work previously performed by the King's Council.

Duration of Parliament.—Henry VIII, notwithstanding that Parliament was intended by statute to sit annually, only summoned the Houses for nine sessions in thirty-eight years, though it should be added that one of these—the great “Reformation” Parliament—lasted nearly seven years. There were no sessions from 1515 to 1523. Edward VI held two parliaments in six years and a half. One of these sat for four and a half years, another for less than one month. During the reign of Mary there were five parliaments in five years, and in that of Elizabeth ten parliaments in forty-four years. One of these lasted eleven years, and there were some lengthy intervals without a parliament. James I

summoned four parliaments in twenty-two years, one sat nearly seven years, and there were two long intervals. It will be seen then that the annual provision was honoured in the breach rather than in the observance.

Taking a rough average the king could not get on without parliament for longer than three to four years, though as a matter of fact there had been three longer intervals. At the same time, the principle was developing gradually that *the sovereignty of the realm vested in Parliament*. In later years it was compelled to meet more frequently, for instance for the annual resolution legalizing a standing army, but at this earlier stage the king as a rule only summoned Parliament when he wanted money.

King and Parliament.—Henry VIII, unchecked by a weak and submissive Parliament, committed many more or less despotic acts in connexion with his matrimonial affairs—with the great religious revolution when he became head of the Church in England—and with the Acts of Attainder he instigated, and which involved death without trial by the peers of the accused. He exacted heavy loans, practically by compulsion, and in 1529 Parliament wiped out his debts. They repeated the process in 1542 and 1543. In Elizabeth's reign, however, Parliament began to protest against over-heavy expenditure, and they successfully resisted James I.

The king was never himself supreme.—"King in Parliament" was supreme—so ran the formula. Throughout the Middle Ages there had been always one great limitation upon the temporal sovereignty, in that it had no power in matters spiritual. The

Church was distinct from the State, but gradually enactments of Parliament were imposed upon religion, and finally the orthodox creed became a statutory creed. Then followed a long struggle over the quality of sovereignty. Did it reside in King and Parliament, or in the king alone? In the long last the supremacy of "King in Parliament" was admitted both in theory and fact, and thereafter a parliamentary statute was recognized as superior to the king's ordinances and proclamations.

The royal power, however, had not been as yet very clearly defined, hence the recurring disputes and disturbances. The reigns of the Tudors were the golden era of the King's Council—*which was not an independent body and had no power as against the king*. In 1553 (Edward VI) it numbered forty, and included four bishops and fourteen temporal peers, the others being drawn from the Commons. The Tudor kings chose capable but amenable members from the Commons, and they skilfully used the Council to carry out their will. Elizabeth banished Anabaptists, not by act of Parliament, but by a Council proclamation; certain exports were stopped under a like authority; and James I, by a similar method, placed restrictions upon the spread of London. In 1610 the Commons protested against James' proclamations. The judges also advised that the king could not legally make proclamations imposing fines, forfeitures, or imprisonment. In their opinion proclamations could only confirm or ratify existing law. James stubbornly continued to issue proclamations. One reason for this persistence was that he was operating through the Court of the Star

Chamber, which enforced its own illegal decrees, and none dared resist its judicial powers.

The origin of the Star Chamber Court was as follows. A statute of 1487 (Henry VII) had empowered the chancellor, the treasurer, and the keeper of the privy seal—together with a co-opted bishop, a temporal lord of the King's Council, and two chief justices—to be a species of executive committee to punish certain crimes such as riots, forgery, perjury, fraud, libel, conspiracy, bribery of jurors, or other interferences with the due course of justice—*without trial by jury*. This court acted on information laid before it by the king's attorney. The "Star Chamber" was not actually mentioned, but the committee used that room, and hence the title. Independently of the statute of 1487 the King's Council dealt with sedition, robbery, and theft, and the only restriction upon its powers in this field was that it could not impose the death penalty.

Later the Court of the Star Chamber was abolished, because of its usurpations of power, though during the reigns of Elizabeth and James it was popularly supposed to be acting legally. In some ways it was distinctly useful, for it punished many crimes which otherwise would have gone unpunished, because ordinary trials often were costly, slow, and cumbersome. It became tyrannical under Charles I—even infamous—for it then assumed the character of a court of politicians cruelly enforcing their policy, rather than judges administering the law. It employed torture, and it intimidated jurors in the ordinary courts into compliance with the king's will—for they could be cited for so-called "wrong decisions."

Elizabeth appointed a "Court of High Commission" to act with authority over the Ecclesiastical Courts. By 1583 it was constituted with forty-four members of the Commons. In religious cases it had power to fine and imprison. It was so far justified in that it had statutory origin, and many Englishmen were gratified that spiritual jurisdiction at last was definitely subordinated to the temporal power. This commission used its powers extensively and oppressively under the guidance of Charles I. In this and other directions he was unfortunate, for he inherited much trouble from his father James, including a Parliament which had begun to question the legality of several Tudor institutions.

Judges of the ordinary courts were servants of the king, and under these conditions it served little purpose to question the validity of the king's court. The king was the recognized fount of justice, the judges in effect were his deputies. The king could submit a judge to question before the latter gave his decision, and James I often abused this privilege. A struggle consequently ensued between the king and the common law, for the mode of government was in clear conflict with unrepealed statutes—and many acts of administration were illegal. Charles I had to face the inevitable storm, and lacked the wisdom to do so successfully.

Taxes and impositions.—Direct taxation for some time past had been placed by statute beyond the king's powers, but indirect taxation was still in some uncertainty. It is said, for instance, that no *duty* was imposed by English sovereigns between the accession of the Lancasters (1399) and Mary (1553).

Edward IV. (1461-1483) had recourse to benevolences, Henry VII and Henry VIII to forced loans, but none of them attempted taxes on merchandise. In 1557 Mary imposed an export duty on cloth, also an import duty on French wines—and the judges declared against both. Elizabeth, however, continued the wine duties, and James imposed a duty on currants. A subject refused to pay, and the subservient court of exchequer supported the king. The Commons then passed a bill that no impositions were to be made without the consent of Parliament, but the Lords rejected it. James made several more impositions, and in 1614 the Commons passed a unanimous resolution denying the king's authority. James dissolved Parliament, and, in order to obtain the revenue he needed, levied benevolences to the end of his reign—the Commons steadily protesting. He sold privileges, for instance, to towns for trade purposes, for the holding of markets or fairs, or for the local exaction of tolls on merchandise in transit. He sold monopolies for exclusive trading rights in coal, salt, and leather. Elizabeth at an earlier stage had undertaken to repeal those imposts and to issue no more, but James resumed the practice. The Commons at last asserted that all monopolies were illegal, and so finally defeated him.

Army.—In feudal times the land tenure system gave the king an army, but it was a clumsy weapon at best. The tenant had to serve only forty days in each year, and *this within England*. Every male subject was under compulsion to have weapons—spear and helmet, and so a species of defensive army became available. By the Statute of Westminster

(Edward I, 1285), every freeman between the ages of fifteen and sixty was compelled to have armour, and the force so created was useful for police purposes. For external war the king, through his deputies, selected the men—and himself paid them. Later the counties were made to pay, with the result of loud complaints. Under Edward II the Commons petitioned against the practice, and Edward III granted their request, but the compact soon after was broken. However, in 1402 (Henry IV) it was confirmed by statute that the counties no longer were to be compelled to pay.

Tudor despotism was not enforced by a standing army. There were only a hundred or two yeomen of the guard, and a few soldiers in fortresses, but for external wars the statute of 1402 was disregarded and the counties were forced to provide troops—usually by the method of “impressments” by “commissioners of array.” During the reign of Charles I there were heated debates in Parliament as to whether the armed forces created by the old statutes—styled the “militia”—were at the command of the king. Still there was no recognized standing army: and for wars abroad the troops were raised by voluntary enlistment and impressment. In James I’s time armies that had been employed abroad were not always disbanded on their return to England, and in 1624 certain troops were retained at Dover. The men were under ordinary common law, and discipline was very bad. Later it became difficult to keep standing armies and maintain discipline without using illegal means. It was a problem also how to pay the troops without resort to illegal modes of raising money. It is curious that

while there were constant protests about impressing soldiers, the forcible impressing of sailors was recognized for many years and caused little comment.

Charles I (Stuart, 1625-1649).—Incapable of appreciating that Parliament was no longer the submissive instrument it had been under the Tudors, that men like Eliot, Hampden, and Pym could not be coerced or browbeaten, himself unstable as water and unscrupulous in his undertakings—Charles, like his father, struggled to set aside Parliament and to substitute his own personal rule. Himself a staunch Protestant, he had been ready, when prince, to marry the Catholic Infanta of Spain, and when this became known, shortly after his accession, the nation at once was prejudiced against him. When his marriage to the Catholic Henrietta of France was in course of arrangement, he joined his father in a pledge that there would be no relaxation of conditions in favour of Catholics in England—yet he already had agreed secretly—before his marriage—to bring about some such relaxations. Furthermore, the nation had granted subsidies for a war with Spain at sea; but Buckingham, with the support of Prince Charles, had been permitted to launch an unsuccessful land attack. England was becoming increasingly Puritan, and the nation was deeply disappointed at the spectacle of Charles leaning—as his father had done—on favourites such as Buckingham. At this time, too, Bishop Laud became Charles' close adviser, and Laud had a rooted dislike for the Puritans. He was narrow and determined—and a very capable administrator.

During this reign Harvey made his famous pronouncement upon the circulating system; and the spread of scientific knowledge led to a growing recognition of the importance of the individual.

The first Parliament (1625) promptly imprisoned Montague, a court chaplain who showed leanings towards Romanism, and it granted supplies *for the express purpose of prosecuting the war*. Charles wanted a million, and the Commons granted £140,000. They also delayed over the customary grant of tonnage and poundage during the king's life—to his very great anger. After considerable debate they made the grant for one year. Charles refused this, and adjourned the Houses. He released Montague and levied the disputed customs, without authority of law. On the reopening of Parliament the Commons firmly intimated that they must first consider the nation's grievances—whereupon Charles dissolved Parliament.

Buckingham's second war effort proved both costly and disastrous, and at this stage Sir John Eliot emerged as a commanding figure in Parliament. In the sessions of 1626 he fearlessly voiced the nation's resentment against the favourite. The angry king replied that his minister was not to be attacked. The Commons thereupon resolved that no further subsidies would be granted until action against Buckingham was initiated, and the king responded by reminding them that they were in his control, to call or dissolve. Under pressure Charles finally gave way, and agreed to the impeachment. Eliot easily carried the motion for impeachment in the Commons, and the king hurried to Parliament where he stated his acceptance of full personal re-

sponsibility for Buckingham's actions. At the same time he unwisely committed Eliot and Digges to the Tower. The Commons refused to proceed with business, and after ten days the two parliamentarians were released. The king, against the advice of his Council, dissolved Parliament, and at once began to levy illegal benevolences on his own authority. Collections came in very slowly—many refusing to pay unless Parliament endorsed the levy. Charles in 1627 retaliated with a forced loan. The Chief Justice had advised him that this would be illegal, and that high official in consequence was dismissed from his post. Laud and his minions, in and out of the pulpit, supported the king's reckless policy. Soldiers were quartered on the recalcitrant counties; tradesmen were sent to prison; and Buckingham took in hand the task of collecting levies from the nobles and squires. Eight peers refused to pay, also about two hundred country gentlemen—notwithstanding that a number had been imprisoned. The great John Hampden was one of those who refused to pay an illegal levy.

Buckingham's amazing ineptitude in foreign affairs had thrown England into wars with both France and Spain. He thought to retrieve himself in English opinion by a military success against France—whose forces were attacking the Protestant town of Rochelle. He personally commanded a fleet with the design of relieving Rochelle, but the expedition failed ignominiously.

Charles was forced to summon Parliament in 1628, and the court candidates were widely defeated. Then the Commons drew up the great "Petition of Right"—its main point being that there

was to be no taxation without consent of Parliament. The document ran: "No man hereafter is to be compelled to make or yield any gift, loan, benevolence, tax or suchlike charge *without the common consent of Parliament.*" No man was to be molested or imprisoned, otherwise than by lawful trial, for refusal to pay; and there was to be no more billeting of soldiers on civilians, or martial law in peace time. The Lords sought to conciliate Charles with a reservation for his sovereign power, but Pym sternly pointed to the higher authority of the law. The king made an evasive reply, and Eliot again protested strongly, especially about the actions of Buckingham. Under royal command Eliot was checked by the Speaker, on the ground that the king would permit no reflection on his minister.

Another of Buckingham's expeditions for the relief of Rochelle proved unsuccessful, and, money being urgently required, Buckingham persuaded the king to agree to the Petition of Right—and *this was done*. The Commons then granted supply, not knowing the disingenuous evasions in the king's mind, particularly as to imprisonment without trial—a point upon which he was determined. Similarly, he never abandoned his intention to continue his tonnage and poundage collections. The Commons renewed their remonstrances against Buckingham, and, to avoid trouble, Charles prorogued Parliament. The Buckingham problem then solved itself—for he was assassinated by one Felton as he was about to leave with a third fleet for Rochelle. All England rejoiced over his downfall—as a matter of history somewhat prematurely, for Buckingham was succeeded by another worthless minister, one Weston,

who became Treasurer, and later was made Lord Portland. He had the one merit of being careful and thrifty in the administration of treasury moneys.

In Germany and France the Protestant cause seemed doomed, and England became profoundly concerned. Another source of deep discontent was Laud's Arminianism, which seemed to the Puritans little better than Popery. Laud and his ecclesiastical coadjutors had declared that the subject and his goods were at the absolute disposal of the king; they constantly urged obedience to Charles' will, and under the sanction of religious authority made a covert attack upon personal liberty. Parliament in 1629, under Eliot's guidance, insisted upon discussing religious grievances, and for the time being refused supplies or the regularization of the king's tonnage and poundage collections. Charles maintained that the nation must accept its creed from the clergy in convocation *and from himself*, while Parliament held that the belief of a nation was a question for the nation itself.

The king pressed for the regularization of his customs collections, and also for certain seizures of the goods of merchants who had refused to pay, but the Commons stubbornly declined to grant supplies until certain wrongs were rectified. Charles sought to adjourn Parliament, but the Houses *refused to be adjourned* until they had declared against innovations in religion, and had formally protested against levies unsanctioned by Parliament. Eliot strongly denounced the new treasurer, Weston. Charles, buttressed by his extraordinary belief in the sanctity and power of the royal prerogative, did not call

Parliament together for the next eleven years—purposing to govern on his own individual authority. Protesting leaders of the country party were thrown into prison, where Eliot died. The king's provocative actions were the more astonishing in that he had no standing army. He relied on his pliant judges for legal support, and hoped to carry through his high-handed policy without the heavy expense of maintaining an army. He made a humiliating peace with France—and then with Spain, largely because he was penniless, while still determined to do without Parliament. The king and his tool Weston had perforce to make some efforts towards economy, but nevertheless the crown expenditures exceeded the income. All kinds of expedients to raise money were adopted, and the dormant powers of the prerogative were strained to the utmost. Fines were extorted on many flimsy pretexts, and the Court of the Star Chamber was used freely to extort money for the Crown. Weston resumed the sales of trading monopolies—in defiance of the Petition of Right—with a consequent heavy rise in the prices of many articles. Customs exactions were continued, while the Star Chamber ruthlessly suppressed all resistance. The revival of benevolences led in some cases to the royal tax-gatherers being resisted by force in the counties. With these illicit collections Weston reduced the king's debts from £1,600,000 to about half that amount, and at last the revenue equalled the expenditure. The nation was widely discontented, but as yet the discontent had not taken active form—for confidence prevailed that Parliament eventually would succeed. The country generally was fairly prosperous, owing

to the long peace coupled with increasing trade, and this for a while delayed the impending storm. A steady migration to America, however, had set in, while the gentry held aloof from the Court. The calm was only superficial, and the advent of Wentworth upon the scene accelerated the ominous march of events. Unfortunately for England he became the king's minister—determined to support the royal prerogative by any available means. He was bent upon building up the power of the Crown. In Wentworth the very genius of tyranny was embodied, and to inspire fear was the only method he understood. He was a fine administrator, but his brusquely overbearing manner inspired dislike all round—especially in Henrietta. On the other hand he very soon completely dominated the king.

To support the royal power Wentworth turned to Ireland for a standing army. He quickly restored comparative order there—hesitating at no legal limitations. He set up a force of 5000 foot and 500 horse—for several years a menace to England. While Wentworth was occupied in this way in Ireland, with his ruthless policy of "thorough," Laud was equally busy in England. He threatened to take measures against the Huguenot and Walloon refugees in England, and in consequence they fled to Holland. A deeply disturbed England watched his gradual progression towards Rome, on his part possibly an unconscious movement. Charles appointed him Archbishop of Canterbury, thus giving him further scope for dangerous activities. He turned the "High Commission" into a standing attack upon Puritan ministers—in order to compel the latter to "conform" with the ordained

ritual, with its surplice and ceremonies, both abhorrent to the Puritans. At the same time importations of the Geneva Bible were stopped. Some of his clergy encouraged the use of the confessional—asserted the Real Presence in the Sacrament—and offered prayers for the dead. For a time Laud's pertinacity held in check the growing opposition and resentment. He excited special anger by his advocacy of a "pleasure Sunday." The Commons denounced Laud as an assailant of the Protestant character of the Church of England, but the nation for the moment was helpless, because the king's authority backed the minister. A further deep-seated grievance arose from the displacing of many of the ablest Puritan clergy, while the rites and ceremonies of the service were enhanced. Many people left England for America—to seek freedom of observance and purity in religion. They turned instinctively to the new world for a freedom of conscience and practice denied them in the old. They were not adventurers or needy folk: they were mostly men of the middle and professional classes—men whom England could ill spare. Three thousand left in one year, and seventeen thousand in ten or eleven years. Milton had purposed going into the Church, but he refrained, owing to the unsatisfactory condition of England. He turned instead to study and verse. England's traditional patience began to give way, and this the more rapidly because still no Parliament was summoned.

An alliance between France and Holland—both owning formidable fleets—drew sharp attention to the urgent need for an English fleet. A law officer of the Crown unearthed an antiquated precedent

for the provision by the port towns of ships for the king's use, while the counties near the sea were to provide equipment. All this, however, had been at a time when the surrounding circumstances were entirely different. It clearly was illegal to attempt anything of the kind in Charles' day. He persisted, however, in raising "ship-money," and in places the demand for vessels was commuted into money payments. Writs were issued broadcast, and were enforced by fines and imprisonment. On Weston's death Laud took over the treasury work and zealously pressed these claims—he and the king hoping to derive about £250,000 annually from these exactions. The courts supported the king, and Wentworth urged similar impositions for Ireland—in order to maintain and increase the army. So aghast was England that even Hampden at one stage contemplated emigration. Fortunately for English liberty he did not leave, and, with his friend Pym, stood grandly for parliamentary rights in the desperate struggle now inevitable. With many others he refused to pay ship-money, while the subservient judges had advised Charles privately that the claim was legal. When this became known generally, the nation had nothing but angry contempt for judges who had degraded their offices and had become the creatures of the Crown. Hampden was put on trial in December 1637, and all England anxiously awaited the verdict. The argument lasted for twelve days before a full bench of judges, and by a majority of seven to five they found that "no statute prohibiting arbitrary taxation could be pleaded against the king's will." This notwithstanding that it had been shown clearly

that ship-money had been levied in past times only in sudden emergencies, and that by both the Petition of Right and express statute it was illegal.

There was trouble also in Scotland, brought about by Laud, who detested Presbyterians, but Charles lacked both money and men to punish the defiant north. France, under the guidance of Richelieu, was negotiating to assist Scotland. With the energetic Wentworth back in England, the decision was made to wage war on Scotland—though war necessitated a step always obnoxious to Charles, the summoning of Parliament. Wentworth—now Lord Strafford—hurried to Ireland, where he rapidly raised subsidies from the Irish Parliament and also eight thousand soldiers—by way of example to England. The English Parliament, however, demanded redress of grievances before it would grant supplies. They would vote no grants till religion, property, and liberty of the person were made secure. The king endeavoured to compromise by relinquishing ship-money—but without avail, and after a three weeks session the “Short” Parliament was dissolved by the King—and this after eleven years without any Parliament. Strafford urged that inasmuch as the Commons had refused supplies, the king could raise funds by extraordinary means. Strafford’s Irish army proved useless, and Charles had to make concessions to Scotland. His treasury was empty, and the city of London had refused to make a loan. The king, looking for any expedient to save the situation, tried to evade calling Parliament by summoning instead a Great Council of Peers at York, but the majority declined to attend. He was compelled at last to call Parliament—the

"Long" Parliament which opened in 1640. Pym, a great authority on constitutional principles, was the recognized leader, and he was the first great parliamentary leader in the modern sense. When Charles refused to act in conjunction with Parliament, Pym treated the refusal as a temporary abdication—the executive power according to him then vesting in the two Houses until other arrangements could be made. This involved a great assertion of principle, and its validity subsequently was recognized—first, by the Convention and Parliament which followed upon the deposition of James II, and, second, by the general acknowledgment—after the Reform Bill of 1832—that the real government of the country vested in the Commons, carried on by ministers who represented the majority in that chamber.

Incidentally Pym solemnly warned the Lords not to obstruct, for, if they did, the Commons would "save the kingdom alone." His enemies, unconsciously very near the mark, called him "King Pym." The elections, and the great issues at stake, completely stayed the outflow of emigration, and public indignation began to express itself hotly. Parliament was flooded with petitions, and Strafford, impeached for tyranny and misgovernment, was committed to the Tower. Windebank (Secretary for State) was charged with corruptly favouring Catholic Recusants, and fled. Finch (Lord Keeper) was impeached, and he too escaped abroad. Laud was handed over to the charge of the usher—a prelude to further action to follow. Sir Robert Berkeley, one of the judges who had declared ship-money to be legal, was sent to prison; the impris-

oned Puritans were released; ship-money was declared illegal; and the judgment in Hampden's case was annulled. An act of 1641 provided that no subsidy, custom, impost, or other charge on goods imported or exported was to be imposed without the sanction of Parliament, *and so put an end for ever to arbitrary taxation by the Crown*. A measure for triennial parliaments was passed, and religion was restored to its condition under Elizabeth. Pym moved that all bishops and clergy were to be debarred from secular or state offices, and also to be expelled from the Lords, on the ground that too frequently they had been mere puppets of the king. In 1641 a bill for this expulsion passed the Commons, but was rejected by the Lords.

These several steps meant a complete reversal of all the illegal and unconstitutional actions of the Stuarts; and the king, at last realizing the temper of the people, looked on helplessly and sullenly. He did not oppose the impeachment of Strafford, but was secretly determined to save his life. The Commons found it difficult, for purely technical reasons, to prove their case, and they had recourse to a Bill of Attainder with the concurrence of the Lords. Henrietta became furious at these bold steps, and urged the king to resist if necessary by force of arms. At this juncture the king's secret negotiations to use the still undisbanded army became known—and sealed the fate of Strafford. Henrietta did not wish Charles to be disadvantaged because of Strafford, whom she hated, and upon her urging the king signed the death warrant.

King and Parliament at last were opposed—definitely and irreconcilably: Parliament could not trust

the king, and the king never forgave the execution of Strafford. He regarded the recent measures as having been extorted by force—to be revoked by himself at the first opportunity.

The Commons virtually challenged the king by passing a measure that Parliament was not to be dissolved *except by its own concurrence*. This step was revolutionary in character, for hitherto the Crown alone had been empowered to dissolve. Then Parliament abolished the civil and judicial jurisdiction of the Star Chamber, and of certain other and lesser tribunals. Charles, deeply incensed, and always hoping presently to reverse these parliamentary actions, intrigued with Scotland—and further alarmed England. The national resentment was greatly intensified by Catholic risings in Ireland, followed by massacres of large numbers of Englishmen.

Hyde—afterwards Lord Clarendon—organized a Royalist party in Parliament. He considered that quite enough had been achieved by way of remedy against the Crown's encroachments, and he did not desire that Parliament should share in the actual work of administration. Pym appealed to the nation with a solemn "Remonstrance"—an elaborate state paper rather than a petition. It justified all recent parliamentary actions, it demanded justice, and it insisted upon the appointment of ministers who possessed the confidence of Parliament. After a protracted debate this was carried by a majority of eleven—both London and the country supporting Parliament. A measure for the expulsion of bishops from the House of Lords was reintroduced, and

later was passed by the Lords. The nation gradually but inevitably had split up into two parties, derisively styled "Cavaliers" and "Roundheads." Feeling grew stronger on both sides, and there were skirmishes in and around London. Charles sent his attorney to the House to demand the surrender of Hampden, Pym, and three others, for high treason and for alleged correspondence with the Scots. Next day Charles himself went to the House to supervise the arrest of the five, but the House, in order to protect them, had ordered them to withdraw. On the succeeding day the king personally visited the Guildhall, and again demanded their surrender—but they were not there. Charles in his reckless policy for the moment stood alone—for not one of his advisers supported his actions.

The king then prepared for civil war, and the parliamentary party acted similarly. Thirty-two peers and sixty-three members of the Commons left Westminster and joined the king at Oxford, while the nation generally supported the Parliamentarians. Hampden, Pym, and Holles were constituted a "Committee of Public Safety." War opened, and Hampden's death from a wound, coupled with early Royalist successes, seemed for the moment to sound the doom of the parliamentary cause. But Pym remained, and presently came the turning-point. Pym passed away in 1644—worn to death by his giant labours. The Scottish Presbyterians agreed to join in the war on the side of Parliament, and Parliament, in its extremity, agreed to a "Covenant," the aim of which was to abolish episcopacy, and to substitute the Presbyterian form of church government.

At this stage Oliver Cromwell—Hampden's cousin—came to the front both as a fine leader in the field and as a wise counsellor. He rendered invaluable service in the war with his invincible "Iron-sides." The king's forces were defeated finally in 1646 at Naseby, and the king himself was captured. At last the Protestant cause was secure, and individual liberty was assured. There were temporary reactions at later stages—but never serious enough to disturb materially the positions gained.

Unfortunately the Puritan army, very conscious of a heavy task well accomplished, came into conflict with the Parliament for which it had fought—because the latter adhered to its agreement over the Scottish Covenant and Presbyterianism. The army—under Cromwell, Fairfax, and Ireton—thereupon virtually took control. They stood for the abandonment of all coercion of the clergy; belief and worship were to be free for all; and Parliament for ten years was to control the army and navy, and to nominate the high officers of state. The Parliament resisted, and the king, hoping that these dissensions might provide some opportunity to resume his rule, made his escape. Civil war reopened—again unsuccessfully for the royal cause.

In Parliament a considerable number of members sympathized with the monarchy, not desiring its abolition, but the army, insistently demanding that the king be brought to justice, at last took action. The king was seized, and the forty members who had voted for making terms with him were arrested. A further hundred members were excluded by force, and the reduced Parliament gave way—the sword

in effect temporarily displacing both King and Parliament. This parliamentary remnant was known as the "Rump." It co-operated with the army, while the House of Lords for the time being disappeared altogether. A Commission of 150 was appointed early in 1649—formally to try Charles. At the same time a resolution was passed that supreme power vested in the Commons, the representatives of the people—with full authority to legislate by themselves, without the concurrence previously necessary of King or Lords.

Charles was condemned as a tyrant, traitor, murderer, and enemy of his country, and was executed on the 30th January 1649. In March 1649 the monarchy was abolished, and two months later the "Commonwealth and Free State" was set up—to be governed by representatives of the people in Parliament assembled, unchecked by King or Lords.

The Commonwealth (1649-1660).—A "Council of State," consisting of forty-one members chosen from the Commons, was invested with full executive power. The nation at large, however, had not sanctioned the revolution, and was hostile towards these dispositions made by the army officers. Dissension arose within the Commons, and a considerable number of the judges resigned their offices. The plain fact was that England did not wish parliamentary and constitutional government to be set aside in favour of military government, nor indeed did the army officers themselves desire to rule by the authority of the sword. They sought public order and liberty of conscience, and if possible some legitimate form of government in order

to secure those aims. The difficulty was to find a valid method. The army desired a new Parliament, properly elected, but the Rump declined to dissolve itself when the point was put to them.

Royalist successes in Ireland necessitated a rapid campaign under Cromwell, and at the same time clouds were gathering in Scotland and Holland. After severely suppressing the rising in Ireland, Cromwell turned north and heavily defeated the Scottish army which had assembled to support the Stuart cause. Holland then desisted from further enmity for the time being. Cromwell once more made an urgent appeal to Parliament for its dissolution, and the Commons consented only by a bare majority of two—on condition of an extension of their own tenure for another three years. Under its inept handling public affairs became gravely confused—further complicated by confiscations and sequestrations arising out of the Civil War.

In 1652, pressed by Sir Henry Vane, an Amnesty Bill was passed, and a real union with Scotland was arranged—its representatives to sit in the new Parliament shortly to assemble at Westminster. The army, increasingly impatient, pressed for a dissolution; and at that critical juncture it became clear that the sitting members intended themselves to pass into the new Parliament *without election*. After much unsatisfactory manoeuvring the army's patience became exhausted, and its leader, Cromwell, swept aside both Parliament and the Council of State.

However justified in itself this drastic step may have been, it left England without a properly constituted government; and Cromwell, as Captain

General, clearly recognized his own serious responsibility for the maintenance of public order. While his authority, under the circumstances, rested upon the sword, he very earnestly regarded himself as called by Providence in the interests of England. He had no wish to set up military despotism; and both he and his officers had acted faithfully in vindication of the nation's right to representation and self-government. "It is you that have forced me to this," Cromwell said to the Rump, and the country for the moment very generally approved his action.

The Army Council then nominated a "Provisional Council of State"—composed of eight officers of high rank and four civilians, with Cromwell at their head. There was difficulty about summoning a new Parliament on the old basis of election, while the Provisional Council, lacking legal authority, itself shrank from altering the electoral basis. A rather futile "Constituent Convention" was summoned, consisting of 156 members, including a leather merchant named "Praise God Barebones"—hence the title of the "Barebones" Parliament. In fifteen months time a new Parliament was to be elected on a basis to be determined by this Constituent Convention. Meantime Cromwell and the Provisional Council resigned their powers to the new Convention, which rashly set to work, without technical warrant, on a host of constitutional reforms affecting the law, the church, and the land—arousing general uneasiness and opposition. Finally, after a period of totally ineffective endeavour, the Constituent Convention—itself in dissension—dissolved by a snatch vote, subsequently confirmed.

The search for a workable constitution continued. The Constituent Convention had nominated a fresh Council of State, which was accepted by the army officers. This Council convened a Parliament on a reformed basis of representation—though they had no legal authority to do so. Catholics and “king’s fighters” were excluded from the franchise for a time—and for others the franchise was based upon a £200 property qualification. They appointed Cromwell “Protector”—again without legal warrant—mainly because of a fear of further disorder. He was to act only with the concurrence of the Council in all important matters, and Parliament alone was to make laws and to tax. Again the nation in large measure approved.

In 1654 the new Parliament met—and its first task was to ratify the steps the Council had taken. No Parliament more truly represented the nation. It contained members from both Scotland and Ireland: and the “rotten” and “pocket” boroughs had been abolished. A large number of Presbyterians were included. In order to legalize matters the “Instrument” of the Council was re-enacted, and, with very general approval, Parliament confirmed Cromwell’s appointment as Protector. The Council had issued sixty-four ordinances during the nine months prior to the meeting of the new Parliament. These ordinances dealt with such important issues as the peace with Holland, reforms for the Church, regulation of the law, and the consummation of the union with Scotland—all largely the work of Cromwell. There still remained for attention the making of peace with Spain and

Portugal, the codification of the law, and the settlement of Ireland.

Following the precedent and theory of power vested in "King and Parliament," Cromwell desired to set up "Protector and Parliament." He did not wish Parliament to act both legislatively and administratively, for he very earnestly deemed his own administration to have been ordained by Providence. He decreed that no parliamentary member could take his seat until such member had formally agreed that the government of the country was vested in "a single person and Parliament." Some refused, and were unable to sit, but the rest quietly settled matters by debating the Instrument and the ordinances categorically—converting these into acts—and so regularizing through Parliament what Cromwell and the Council had done.

Money votes, however, were postponed until parliamentary grievances were settled, and one result was that the unpaid army seethed with discontent. In January 1655 Cromwell angrily dissolved the slow-moving Parliament, and thus definitely set up a regrettable cleavage between the army and the nation. With this act all semblance of constitutional rule came to an end. The Protectorate, owing to Cromwell's impatience, and under the pressure of circumstance, virtually became a military tyranny—a rule of the Major-Generals. Even the levying of taxes by Parliament was set aside, on the plea of public necessity. The nation, always loyal to constitutional order, became very uneasy, and some encouragement in consequence was given to Royalist stirrings. Even those who hitherto had entertained little enthusiasm for Charles, began to

talk of a Restoration. The risings were quickly suppressed, and the leaders were executed. Government at last was frankly and openly militaristic, and the necessary funds were levied on the doubtful authority of ordinances of the officers' "Council of State." Among other provisions there was one according to which all who had fought for the king were compelled to pay one-tenth of their incomes by way of fines, and these payments were enforced rigorously under the Protector's rule.

Tyranny it certainly was—but a tyranny of accomplishment and considerable grandeur—under the guidance of a man actuated by no selfish personal aims. Scotland and Ireland were tranquillized, religious liberty was protected, justice was safeguarded, and the army was kept in fine discipline. The usurpation period of eight years was marked by peace and great prosperity. Nearly one hundred ordinances regulated public affairs. The Church was wisely reorganized, and this with unfettered freedom of belief within the Protestant pale. In Europe Protestantism had emerged from its dark hour and no longer was in danger from the House of Austria or Spain. The devastating Thirty Years War was ended, and a Swedish king had saved the Protestant cause. France, however, had become the dominant power in Europe—through the genius of Henry IV, Richelieu, and Mazarin.

In 1655 Cromwell allied England with France for a war against Spain. He was forced to call Parliament in 1656—but he did so under a decree which excluded men of "disaffection" or "want of religion." Supplies were voted, but Parliament showed unmistakably that it did not sanction the military

tyranny. They acquiesced in the Protectorate, but they insistently demanded a more legal mode of government. They defeated a measure to confirm all the Protectorate acts, and Cromwell, discreetly sensing the public temper, deemed it wise to give way. In order to overcome the legal difficulty, the House, by an overwhelming majority, offered the crown to Cromwell—in order to restore traditional forms, and at the same time to abolish the unlimited powers of the Protector. Cromwell, however, was well aware that he governed solely by virtue of the support of the army, and that he had no personal hold upon the nation. He feared the certain discontent of the army, and he knew its very definite objections. For these reasons he refused the crown.

Then a fresh arrangement was made. By the "Act of Government" Cromwell was to nominate his immediate successor, but after that the office of Protector was to be elective. In all other respects the old forms of the constitution were restored: a Parliament of two Houses: the Commons to determine their own basis of election: and Parliament to appoint members of the Council and officers of state and army. A fixed revenue was voted for the Protector, and no moneys were to be raised except by Act of Parliament. There was to be liberty of *worship* for all but Papists, atheists, prelatists, and Socinians, and liberty of *conscience* for every one.

In 1657 Cromwell was at the zenith of his power—with methods of government which had to a great extent a national and legal basis. At sea England had achieved successes against Spain, on land against the Duke of Savoy, and Dunkirk had

been ceded. Yet, before his death, he realized that his rule was a virtual failure. England was turning away from the rule of the sword—from the attempt to attain spiritual results by material force. The nation resented not only the harsh suppression of many of its pleasures, but also the effort to enforce godliness by penalties. As the Protectorate and the Puritan rigours fell into disfavour, so Royalist hopes revived. The Royalist was beginning to forget Stuart despotism and the persecution of the Church by Laud. Something like national unity of sentiment came into being—in opposition to the Protectorate—practically isolating Cromwell and the army upon which he necessarily relied. The new general movement towards science also told against Puritan dogmatism—and under its stimulus a fairly numerous class styled “Latitudinarians” joined the increasing opposition.

The Parliament which assembled in January 1658 delayed supplies, though army pay again was in arrears, and in other ways it set itself in opposition to the Protectorate. Cromwell angrily dissolved Parliament in February. He had no wish to play the tyrant, and he was ill and disillusioned. In September 1658 he died. So great had been his personal authority and influence that, almost without dissent, his nominated successor took his place. His son Richard succeeded him, with comparatively quiet acceptance by the country. Richard was assisted by the fact that he was reputed to be strongly for peace, and the nation ardently desired peace. He was, however, weak and worthless, but under the peculiar circumstances it was something

in his favour that he was neither soldier nor innovator.

The Council set aside Cromwell's reformed electoral basis, and called Parliament under the old system. The House met in 1659, and promptly launched an attack on Cromwell's regime generally, and on the army. The latter desired a soldier in control, and the Council retaliated by dismissing the leaders of the officers. Richard ordered the officers' Council to disband, and they responded by demanding a dissolution of Parliament. In the event the undecided Richard gave way to the officers—who thereupon restored the Rump, but even that inadequate parliamentary assemblage opposed the army. Dissension soon appeared within the Rump, and the army again drove out the Parliament. The country generally—backed by the fleet—declared against the army—and the latter once more had to summon the Rump. At this juncture, Monk, on behalf of the royal cause, came down from the north with a considerable force, while England rose in support and demanded a free Parliament. Monk entered London unopposed, the leaderless army looking on sullenly, and the restoration of the Stuarts became a certainty.

In April 1660 a new Parliament assembled—styled the "Convention." Charles II promised a general pardon and religious toleration, with satisfaction for the army. These proposals were received by the nation with enthusiasm. The old constitution was restored by a solemn act of the Convention—"according to the ancient and fundamental laws of the kingdom the government is, and ought to be, *by the King, the Lords, and the Commons.*"

Charles Ist came into power in May 1660, and the soldiers-in-arms, always god-fearing and devout, quietly disbanded to their homes. It would be difficult to-day to realize adequately their disappointment and grief. They were men of magnificent and frequently proved courage, and, if their faith was narrow, it had the merit of profound conviction. To their eyes it must have seemed that their heroic performance had been futile, for they had no art to peer into the future where lay the ultimate fruits of their endeavour. With their disbandment Puritanism laid down the sword, and its real victory began. It was not for them to build a Kingdom of God by force: what had been really needed was a kingdom of righteousness in the consciences of men. Puritanism did not die. It was to be once more an inspiring power in the Revolution of 1688, and later again, through Wesley, in the work of religious reform.

Charles II (Stuart, 1660-1685).—Untaught by the ill-starred experiences of his House, he too attempted to rule personally and without a Parliament. His reign was one protracted disaster, largely owing to his inveterate habit of dissimulation and intrigue. His one aim was to restore the powers of the royal prerogative, and he was steadfast only in the pursuit of that aim. With little sense of honour—personal or national—deceit became his customary instrument of policy. At first a sceptic, and intensely superstitious, he soon developed leanings towards Catholicism. Sensual and idle and shameless—he was the very negation of all that makes a king.

Modern England may be said to have begun about this time, with its development of science and industry, its love of freedom and law, social justice and equality, and its readiness to test every custom or tradition by reference to pure reason. Few any longer believed in the divine rights of a Sovereign. Newton was at the head of many illustrious names which marked the era of the Restoration. A theory was developed that the royal authority was based upon the consent of the governed, and that the common weal was the legitimate aim of all good government. According to this theory the people delegated certain powers to the king, and could withdraw those powers if used inimically towards the community: in other words there was always a final right of resistance in the people. There lay upon the king a presumed responsibility towards his subjects faithfully to execute the trusts they reposed in him, and the legislature was assumed to be supreme, because it expressed the voice of the nation. Thirty years later much of this was adopted—coupled with religious toleration, and with full parliamentary government instead of partial monarchical government, but much trouble had first to be encountered and overcome.

The social and political restrictions of the Puritans were thrown off, and the reaction led to a considerable relaxation of the nation's manners and customs. The licentious "rakehells," with the king at their head, became notorious, though it should be added that this applied mostly to the Court and London, and not so much to the counties. Most people were satisfied to return to their simple plea-

tures, their fairs and plays and the like, while at heart they remained sound Protestants.

On the accession of Charles II the monarchy was restored without conditions, and at the outset those exercises of personal authority for which his father had striven, did not seem to be specially desired by the son. No further levies of ship-money, sales of monopolies, or Star Chamber rule were possible, and essential sovereignty began its gradual movement towards the Commons. There still remained to be determined this important issue—who was to *administer* the laws, if Parliament—through ministers responsible to it—did not?

Comparatively uneducated but capable, Charles had shown some qualities in defeat, but on the throne he became, to outward appearance, a consummate idler. Cynical in the extreme, he believed in neither honour nor virtue. He detested work: yet under all his idleness there was a steady determination at almost any cost *to reassert the older prerogatives of the Crown*. Suspicious and intensely jealous of Parliament, he quietly and ceaselessly aimed at asserting his dispensing power over the execution of the law. He regarded church affairs as his own, and not the business of the Houses. He would yield readily under pressure, but only to begin again to spin his endless intrigues. He did not propose to risk his throne: but he strongly held that ministerial responsibility should be only to the king—who in effect would himself administer the laws through his ministers. A king whose ministers could be called to account by Parliament in his view was a king only in name, and he did not

hesitate to use his ministers to bribe and flatter the Commons into compliance.

One of his earlier steps was a refusal to recognize the unions with Scotland and Ireland—for he hoped to use those countries against England in case of need. The English nation, unaware of his real intent, rather supported him, because the union with Scotland had been made under the Commonwealth, the era of "the troubles." About this time the recent more liberal basis of parliamentary representation was set aside. Next Charles turned to the project of building up a royal army in England. He assembled about five thousand men as "guards"—basing his reasons upon some petty risings which had just occurred. Twenty years later the guards had increased to seven thousand foot and seventeen hundred horse, with a reserve of six regiments abroad in the United Provinces. The nation stoutly taking a contrary view stood for a free Parliament—with ministers responsible to that institution and punishable for any misdeeds. Here issue was joined—the king on one side, Parliament and the nation on the other, for on this question of ministerial responsibility the king stubbornly stood alone.

At heart Charles if anything was a Catholic, and he encouraged conversion to Catholicism among his courtiers. The Catholics had found money for him during his exile, and at that time he had pledged himself in return to secure religious toleration for them in England. The nation, however, remained strongly anti-Catholic. For Charles religion was largely a political matter, and he considered that a restored Catholicism in England would assist the

Crown against the growing tendency towards free inquiry and freedom of conscience. He also looked to Europe for possible help, and especially to France under Louis XIV—now wealthy and the dominant power in Europe. French subsidies would enable Charles to do without his own Parliament, and in return he was ready to refrain from intervention while France made an attack designed to crush Spain. Charles' marriage at this time to Catherine of Braganza (Portugal) secured for England some cash and the cession of Bombay.

In England the Presbyterians were occupying most of the magisterial and other similar positions, and of the thirty members of the Privy Council twelve had carried arms against the late king. The "Convention" formally declared itself to be a Parliament, and at once passed an Act of Indemnity—opposing the expressed desire of the king to punish all of the judges who had joined in the condemnation of his father. Finally thirteen of them were executed, and at the close of the session the evicted Bishops and Royalists quietly resumed their benefices and properties. No one in or out of Parliament ventured to suggest the restoration of the Star Chamber—or sales of monopolies—or the Court of High Commission—or ship-money. Nor was any issue raised about the right of Parliament to grant supplies. The army was disbanded, but the militia remained under Charles' command. The royal revenue was fixed at £1,200,000 annually for the life of the king, with an additional £100,000 in exchange for the king's abandonment of the old royal rights of reliefs and wardships, purveyance,

and pre-emption—rights which James I/had refused to surrender.

The Convention Parliament was not as successful with church affairs. It desired some modification of Episcopalianism, to enable Puritans to remain within the Church, but not if this meant toleration for Catholics as urged by the king. While no modification of that limited kind was carried in Parliament, it was to some extent adopted in practice.

For the new elections the old Royalists, recently disfranchised, again went to the polls, together with the Catholics, and in 1661 a "Cavalier" Parliament was set up, consisting of members who in large degree had forgotten the Stuart tyrannies, and who keenly remembered and resented the Puritan rigours. In this assembly the Presbyterians were reduced to fifty, and moderation came to an end. The Act of Indemnity was confirmed with difficulty, Sir Henry Vane was executed for treason, and the document of the "Covenant" with Scotland was publicly burned. Every member of Parliament had to receive the Communion according to the Anglican Church, and the bishops were restored to the House of Lords. It must be remembered, however, that the main purpose of these drastic changes was to restore the system which the Civil War had displaced, rather than to satisfy feelings of revenge.

Edward Hyde (now Lord Clarendon) had become Charles' adviser and chancellor of the exchequer. He was zealous to preserve the prerogatives of the Crown and the authority of the Church—but he wished this to be done constitutionally and by the freewill of Parliament. He succeeded to some extent with the constitutional issue, but failed with the

Church. He turned with unrelenting determination against the Nonconformists. Presbyterians who sought municipal office were compelled first to receive the sacraments and to renounce the "Covenant"—also to admit that it was unlawful to take up arms against the king. His effort to exclude the Presbyterians was only partially successful. In 1662 the exclusive use of the Book of Common Prayer was enforced, and nearly two thousand ministers were ejected as Nonconformists, including many fine preachers and excellent men. This struck a heavy blow at the efficiency of the Protestant Church in England. It found itself for the first time confronted by a strong body of Dissenters outside its pale. The Nonconformists were united by their distresses, and in later years they secured freedom of worship by the Toleration Act.

In the meantime these persecutions raised wide alarm and indignation among Dissenters, and Clarendon, well aware of this deep current of feeling, looked abroad for help in case of need. Charles for political reasons also looked abroad—particularly to France; and he sold Dunkirk to that country in 1662. Always eager to revive the royal prerogative, he wished to dispense with the carrying out of laws if he saw fit, and on this ground he finally quarrelled with Clarendon. He desired to placate the Nonconformists with a motion for toleration, but this had been contrary to Clarendon's aims. Lord Ashley then came to the front, and he, like his royal master, supported toleration for political rather than religious reasons. Charles *by royal proclamation* exempted every one from the operation of the recent

oppressive acts—thus using the extinct royal prerogative to dispense with statute law. An incidental source of anxiety for the nation was that his proclamation protected Catholics as well as Presbyterians. Parliament took a firm stand, forced Charles to withdraw his proclamation, and enacted punishments for all attendants at religious services who failed to use the Common Prayer. Clarendon's intolerance had scored, and Charles determined upon his ruin as soon as opportunity offered.

Trouble ensued with Holland, and Parliament in 1664 voted £2,500,000 for the struggle which ensued. Then came the great plague, with ever-growing resentment in the nation over the costs of the war.

At this very inopportune time Parliament passed another oppressive religious measure—the "Five Mile Act." Directed against the nonconformist clergy, under its provisions no preacher could go within five miles of any town where he had ministered. The act promptly set up a rift between Parliament and the nation, for very general sympathy was turning towards the Nonconformists, because of their undeserved persecution and suffering. Milton was one of those who entertained nonconformist views.

France came into the war to assist Holland, and the conflict dragged on—to the bitter disappointment and discontent of England. Parliament voted £2,000,000 to refit the fleet, and Clarendon became the national scapegoat. Then there occurred the great fire of London—adding to the nation's sense of gloom and disaster.

The Cavalier Parliament was not entirely without merit. While it had needlessly punished Puritans

and Dissenters, it had also insisted upon its constitutional powers. It had opposed the king, it had given counsel on foreign affairs, and it had boldly expressed its dissent from Charles' desire to conciliate France. It voted subsidies for the war, but it added a new feature—a parliamentary commission to examine the royal expenditures, and to question royal officers on oath. Clarendon pressed for a dissolution, but Parliament was strong in its stand for constitutionalism. Peace was made with Holland—after England had suffered the humiliation of the menacing appearance of a Dutch fleet under de Witt up the Thames, and this with London unprepared for defence. Clarendon was dismissed in 1667, and sailed to France; while Parliament and Church now came into political sympathy with one another, both being opposed to the king.

Charles, on the fall of Clarendon, himself undertook foreign affairs—a situation only thinly cloaked by the fact that the office was nominally held by his creature Arlington. The "Cabal" ministry contained two men Catholics at heart, and several Presbyterians. Though Charles himself always leant towards France, in the hope of restoring the prerogative—an alliance was made with Holland and Sweden which completely checked French ambitions towards Flanders—and thus saved Europe.

The ministry set itself against Parliament by releasing the Nonconformists—allowing Conventicles to open—and suspending the Act of Uniformity. Charles by royal proclamation once more pronounced for toleration, but the ministry would not consent—for Charles' French policy was beginning to alarm Protestants generally. The ministry were

quite ready for toleration, but not in respect of Catholics. They desired some kind of union of Protestants—but to this Charles was strongly opposed. The Commons attacked the ministry as soon as Parliament assembled, and ministers were narrowly saved from impeachment. Their suspension of penalties for Nonconformists was denounced, and at this rather critical stage the king prorogued Parliament.

James, Duke of York, the king's brother, in 1672 secretly became a Catholic, and the prospect inevitably presented itself that, should he come to the throne, either he would seek to establish Catholicism, or he would be driven out. Charles, as usual, turned to France to help him to force despotism and Catholicism on England. He too decided secretly to become a Catholic, and he was quite ready, in return for aid, to allow France unopposed to annex Flanders and to ruin Holland. The two Catholic ministers—Arlington and Clifford—assisted Charles in these designs, while the other ministers were outwitted and deceived. In 1670 a secret treaty was drawn up at Dover—Charles was to become Catholic—and England, in return for an annual subsidy of £1,000,000, was to join forces with France against Holland. Furthermore, France if needed was to help Charles in England—in case his religious conversion should create serious trouble. France also was to pay England £300,000 for opposing Holland at sea. The Parliament in 1670—entirely ignorant of these hidden arrangements—granted subsidies. The country, however, was growing uneasy and restless, because in England's eyes France

stood for Catholicism and persecution of Huguenots. On the other hand England's old sea trading jealousy of Holland was changing to sympathy, because of the common sense of danger to Protestantism. Charles and his ministers stood almost alone. Under ministerial urging Holland was attacked hastily in 1672. For war finance purposes the Crown obtained funds by closing the exchequer, and paying no interest or principal in respect of loans to the treasury—a desperate course which shook credit to its very foundations, embarrassed seriously the goldsmiths of London, and rendered it difficult for the Crown to raise further loans. The king, as reckless as his ministers, by virtue of his supposed ecclesiastical powers suspended all penalties against Nonconformists and Recusants—with liberty of worship to all Dissidents except Catholics. This was his well-known "Declaration of Indulgence." The dispossessed clergy returned to their homes and congregations, and John Bunyan was freed after twelve years imprisonment.

Holland was defeated quickly—by France on land and by England at sea, but at this stage William of Orange took charge of Dutch affairs with wonderful courage and ability. In 1673 the tide began to turn, and William's heroic struggle against odds increasingly won sympathy from the English people.

In 1673 Charles approached the Commons for funds, but they considered that both religion and liberty were in jeopardy of unscrupulous betrayal—they suspected James of conversion to Papacy—they complained that there were too many Catholic officers in the army—and they began to suspect even the king's religion. They boldly stated, with

regard to Charles' "Indulgence," that only Parliament could so suspend the statutes concerned, and they refused supplies until that proclamation should be recalled. The king as usual yielded—and recalled his declaration. The Houses then passed a "Test Act"—to apply to all officers civil and military—an oath of supremacy—a declaration against transubstantiation, and a provision that every one was to receive the Sacrament of the Church of England. Most of the Dissenters were prepared to conform, but not the Catholics, and the latter were driven from all offices. Charles sullenly assented: and the Commons granted subsidies. In consequence of the Test Act, James, Duke of York, acknowledged himself a Catholic, and resigned his post as Lord High Admiral. Clifford also resigned his treasurer-ship, and hundreds of other Catholics retired, and in England all trust in Charles was destroyed.

To add to the rapidly growing discontent of the nation, De Ruyter held the English fleet in check, and William of Orange, notwithstanding several defeats, successfully withstood France and recovered provinces for Holland. The Parliament, led by Ashley, the Lord Chancellor, resolved on peace. Charles, however, prorogued Parliament, and demanded the seals from Ashley—now Lord Shaftesbury. At this critical stage it was rumoured that Charles was a Catholic, and Parliament in 1674 received a widely signed address urging the removal of Catholic ministers of the Crown. Thereupon the Commons asked the king to remove three of these, and to disband the troops. They also demanded that any prince, on marriage with a Catholic, should forfeit the reversionary right to the Crown. The

request reflected the panic mood of the nation, yet the bill failed to pass. Charles—still pursuing intrigues with France—prorogued Parliament. He was encouraged to this step by a secret subsidy from that country. Later he again approached the reassembled Commons—who once more refused supplies. Characteristically the king gave way; he dismissed two ministers, and consented to the peace with Holland. Charles, with his invariably tortuous policy, appeared to have yielded entirely to Parliament, yet never for a moment did he relax his secret intention if possible to restore the royal prerogatives. Overtly he seemed to have abandoned Catholicism to its fate. James' daughter, Mary, was made a Protestant by royal decree, and a project was initiated in 1674 to marry her to the Prince of Orange. In his own mind, however, Charles never abandoned his determination to fight it out with Parliament as soon as a better opportunity offered.

Danby, now Charles' chief adviser, and strong for restoration of the royal prerogatives, initiated a system of systematic bribery of members of Parliament in order to attain the king's aims—and because that body was deemed to be growing too strong. It had reviewed the royal spendings—it had dictated policy in affairs of State and Church, including even foreign affairs—it had denounced the king's ministers and driven them from office—and it had intervened even in the case of the succession to the Crown. Charles prorogued Parliament in 1675, and again turned secretly to France for subsidies and if necessary military aid. He went to the deplorable length of virtually submitting himself

as a vassal of France, and he personally signed a treaty without consulting his ministers. A French subsidy, granted on these humiliating terms, for a time made him independent of Parliament.

When Parliament reassembled Danby obtained supplies—on this occasion without the conditions of supervision to which Charles so strongly objected, but this only as the result of profuse bribery. Temporary military failures on the part of the Prince of Orange caused the English nation clamorously to demand war with France. Charles stood out first for supplies, and upon a prompt refusal he prorogued Parliament. He obtained still larger secret subsidies from France—where Louis was alarmed about England's possible entry into the war. These secret subsidies enabled Charles to carry on for seven months. The national pressure steadily increased, however, and Charles appeared to give way. In 1677 William and Mary were married, to the great satisfaction of England, because this ensured a Protestant successor to James. France became correspondingly bitter, and pressed the attack on Holland. In 1678 war with France was decided upon by the English Parliament, and large supplies were voted. But Charles as usual equivocated and played for time—once again thwarting the national will. He delayed the declaration of war, and re-engaged in secret negotiations. He asked still larger subsidies from France—in return for his treachery towards the parliamentary decision. He made a pretence of offering aid to the allies against France, but they declined it, having lost faith completely in England. They signed a peace with France which certainly saved

Holland—but which left France the arbiter of Europe, and England disgraced and discredited. Charles for his part had the sorry solace of a million pounds of French money in his pocket, and twenty thousand soldiers under his control. Catholic hopes in consequence rose high in England—while Protestant alarms correspondingly increased.

Titus Oates in 1678 betrayed to Charles an alleged Catholic plot—mostly a concocted story, supported by perjury. The allegation was that an attempt would be made to quell Protestantism—to assassinate the king—and to place James on the throne. Shaftesbury skilfully used the rapidly growing Protestant agitation, and in his consultations with the king he employed astutely his knowledge of the secret negotiations with France. His general aim was to restore constitutionalism, and incidentally to exclude James from the succession. Two Catholic peers and about two thousand suspects were hurried to prison, and train-bands were rapidly organized to guard against the supposed Catholic rising. In 1678 Shaftesbury piloted a measure through Parliament to exclude Catholics from either House, and this held good for the ensuing 150 years. On the other hand Charles was successful in preventing the application of the bill to James.

The nation then demanded that Charles should disband the army, and at this excited moment there began to leak out some details of Charles' intrigues with France. Danby, who had assisted him, was impeached for high treason—but action was not pressed. Shaftesbury for the time being was supreme. In January 1679 the Parliament which

had assembled in 1661 at last was dissolved—the longest unbroken Parliament in our history. A new Parliament was summoned amidst intense national excitement. Bribery again was used widely by ministers, but the new members were mostly country gentlemen and churchmen—and Charles once more had to bow to the national determination. James was sent to Brussels, and Charles began to disband the army. He also undertook that Danby presently should withdraw from office. He then asked Parliament for supplies, alleging among other things his desire to assist the Protestant cause in foreign affairs. Danby was dismissed—notwithstanding Charles' efforts to defend him. Few if any court candidates had been elected, and Shaftesbury assumed control of a Parliament which promised a sounder policy at home, with support for Holland abroad.

Sir William Temple then set about to discover some means of bridging the gap in national affairs—between the king and his efforts to set up personal rule, and a Parliament determined to maintain the powers it gradually had won. He proposed the restoration of the Royal Council to its old status. Up to the end of the reign of Elizabeth the Council had been a species of deliberative assembly, to advise the monarch on the graver matters of public administration, while a smaller body, consisting of the more prominent Councillors, had come into existence more intimately to advise the king. Under James I this secret or inner committee almost entirely superseded the Council itself, and so removed the salutary check which the larger and more popularly composed body had exercised upon the

Crown. Temple's restored Council was to consist of thirty members—whose estates conjointly were to be worth not less than £300,000.

In 1679 the new Parliament began by abolishing the press censorship: and it passed the "Habeas Corpus Act." Under the great Magna Charta no freeman was to be molested or restrained, except by the legal judgment of his equals; and under the new act—except in cases of treason or felony—any unconvicted prisoner could appeal to the Courts to be released on bail. Prisoners for treason or felony were to be tried without undue delay. A writ of Habeas Corpus was not an order for release on bail; it was a command of the king (or a judge) that the gaoler should bring the accused before the court to show whether or not he was detaining the prisoner by legal authority. If no such authority could be proved, the prisoner was to be discharged. If it was proved, he was to be released on bail in cases of minor offences, and brought speedily to trial in cases of more serious crime, felony, or treason. The act also provided that there was to be no imprisonment overseas.

The ministry was divided about the succession of James, while the country at large was strong for his exclusion—the king doggedly opposing. He was ready to concede that James, when he succeeded, should not hold the power of presentation to church livings, and also that, as long as a Catholic sovereign occupied the throne, the appointments of all councillors, judges, and officers of the Fleet were to vest in Parliament. Shaftesbury set this aside as inadequate, and as being likely to set the king still more against Parliament. A bill for James'

exclusion came before the Commons, and was passed by a large majority, and at the same time the House addressed a "remonstrance" to the Lords—where Charles was certain to use all available means to influence the Peers. To gain time—his customary method—*he dissolved Parliament*. Had the measure been passed, all need for the Revolution of 1688 would have been avoided. The ministry continued to be divided, and Shaftesbury was inclined to be suspicious of William of Orange, since the latter, if he succeeded, was likely to prove as strong on the royal prerogative as Charles. Unfortunately Shaftesbury moved to set aside William and Mary from later succession—a step very repugnant to England; and, worse still, he pressed the alternative claims of Monmouth, the king's illegitimate son, to succeed Charles. Monmouth was weak and profligate, but popular for his personal beauty and bravery. Furthermore he was widely considered to be a virtual pledge against popery and tyranny. The other ministers, who did not see eye to eye with Shaftesbury, induced Charles to recall James, and to dismiss Monmouth from England. Shaftesbury pressed recklessly on his course, and some persecution of Catholics followed. The king in 1679 dismissed Shaftesbury—England was in a turmoil—and Charles reopened secret negotiations with France. The French terms, however, were so humiliating that even Charles felt unable to accept, and he had to summon Parliament in 1680. The new House of Commons, however, was stronger than the last in its antagonism to his ideas. Monmouth's claims were further pressed—at the instance of Shaftesbury, who had reappeared in

England. He had counted on Parliament to support Monmouth, but Charles took the grave risk of proroguing—in the teeth of the advice of his Councilors. For him time was important as it was working on his side. The Oates perjuries had been disclosed, and the tide of popular feeling was turning somewhat in his favour. England was indisposed to support a royal bastard, and was still more adverse to any recrudescence of the horrors of civil war. The reckless Shaftesbury, however, did not hesitate to push matters even to the extent of risking a test of arms, and the country became sharply divided—into “petitioners” (Whigs) who favoured Monmouth and the exclusion, and the “abhorrrers” (Tories) who opposed those aims. Charles skilfully used these distractions; he recalled James to Court, and accepted the resignations of several ministers. Shaftesbury still relied on Parliament—and continued to urge the claims of Monmouth.

At this stage the influence of William of Orange raised obstacles for Shaftesbury. France in her arrogance was applying oppression in several directions—including persecutions of the Huguenots. Against her efforts William patiently began to build up that “Great Alliance” which finally checked French ambitions. He desired to bring England into this alliance, but in order to make her aid effective he deemed it advisable first to reconcile the King and his Parliament. Furthermore England should be freed from the disgraceful dependence upon France. The storm over the so-called Popish plots had interrupted William’s designs, but, when this had passed away, he intervened in England by backing James—because through James arose the

claims of his wife Mary and himself. Charles at last, appearing to concur, promised aid to Holland in case of need. He informed the new Parliament accordingly, but the dissatisfied and suspicious Commons, urged by Shaftesbury, passed an Exclusion Bill without a division—even setting aside the reversionary claims of William and Mary. The Lords, led by the rising Halifax, a friend of William of Orange, rejected the bill, but by way of compensation offered certain Protestant safeguards. The Commons refused these, and Charles for his part would not yield. The king prorogued Parliament, and once more turned secretly to France—assisted in this by James and his favourite Churchill. Charles then took the still bolder step of dissolving Parliament, and called a new one for 1681. Monmouth, with his “progresses” up and down the land, was active, and a revolt seemed imminent, while Charles secretly pressed on his negotiations with France. For an adequate French subsidy, which was granted, thus making him independent of Parliament, he treacherously engaged to keep England out of the Great Alliance. Parliament assembled—deeply embittered by the two recent dissolutions—and still bent upon maintaining the rights it had won at such cost. After a month Charles dissolved it the moment the Exclusion Bill reappeared in the Commons. He appealed to the nation—ignorant as it was of the real scope of his treacheries with France—as a monarch greatly wronged by his Parliament. The country to some extent responded—for the proposal to disturb the royal succession was widely unpopular. Shaftesbury was arrested—but shortly released. He had, however, in large

degree lost his power, for a national reaction had set in against him. Halifax induced Charles to summon a new Parliament, hoping it would be more tractable; and William of Orange visited England in the hope of inducing Charles to join the Great Alliance. The king continued to temporize, always keeping undisclosed his secret arrangements with France. France recommenced her aggressions, among others upon the Huguenots, and this awakened deep resentment in England against her hereditary enemy. Charles remained anxious both to avoid war and to refrain from calling Parliament. He placated the Established Church by some persecution of the Nonconformists, and at the same time called James back to court. He had Monmouth arrested, and for the moment all the hopes of the exclusionists were dead. Shaftesbury, realizing the situation, made a desperate but unsuccessful attempt to raise forces in London. He fled to Holland in 1683, and shortly afterwards died there. Another futile plot to murder Charles and James—the Rye House Plot—was betrayed; there followed several executions, and Monmouth fled abroad.

Charles had triumphed, and the nation, still ignorant of the real quality of his treachery, and always averse to civil war, momentarily was quiescent. The constitutional opposition, with its checks upon the king, seemed crushed, but always below the surface was the powerful deep-seated urge for Parliament and legal government. Charles wisely refrained from attempting to suspend any statute or impose any tax by royal authority, or to curb the press, but he never relaxed his intention to

exercise despotic power. Halifax in vain pressed him to resist French aggressions in Europe, and to call a fresh Parliament. Charles, supported by secret French subsidies, ignored the Triennial Act, and his revenues were greatly increased by swelling customs duties arising from the growing commerce. Charles prepared quietly for the calling of a fresh Parliament, and hoped, by manipulating the town charters, to get the borough representation largely into the hands of the Crown. Unnoticed he increased the numbers of the guards to about nine thousand men, with a reserve of six regiments. At this moment, with his despotic schemes apparently likely at last to succeed, his death in 1685 saved English freedom. He was secretly and formally reconciled, on his death-bed, to Roman Catholicism.

James II (Stuart, 1685-1688).—Dull and narrow, dogged and arbitrary, he hated Puritans as intensely as he believed in the royal authority. Like his brother, he readily looked to France to help him to establish Catholicism in England—notwithstanding his coronation oath to “preserve this government both in Church and State as it is now by law established.”

In the general relief at the death of Charles, England was disposed to accept James at his professed value, and suspicions of Catholic designs for the moment were lulled. James did not attempt to disguise his own religion, and any day he could be seen at Mass in the Royal Chapel. Almost at once he forbade all preaching against “the king’s religion.” In his heart he was determined upon freedom of worship for Catholics, and equally determined

if possible to exclude Nonconformists from this privilege.

A new Parliament had to be called, for the royal revenues, in the form granted by the Houses, lapsed with Charles' death, and a careful manipulation of the boroughs returned a Commons composed largely of supporters of the king. A revenue of nearly two millions annually was granted to James for life, though already there were grumblings about too many Catholic officers in the army. The nation's loyalty, however, was maintained for the time being by an unsuccessful Scottish rising, and the reappearance of Monmouth in the west. Monmouth, claiming the Crown, had made the cardinal blunder of styling himself king—instead of leaving that to Parliament. He was defeated, captured, and executed. Then followed brutal repressive measures, conducted through the "bloody assizes" of Judge Jeffreys. Though these measures had the express sanction of the king, all England was horrified. Many men were fined, imprisoned, exiled, or executed, and James coincidentally made the risings an excuse for raising the standing army to twenty thousand. At this stage the country began to entertain suspicions of his aims.

Like his brother, James was intent upon mastering Parliament, and he did not hesitate to approach France for secret subsidies—though this meant humiliation for himself and treachery to his realm. William of Orange proposed a visit to England, which was declined. Parliament desired to interwork with Holland and Spain, but the king, with French bribes in his pocket, and advised by Sunderland, would not agree. England, always uneasy

about French proceedings, was deeply disturbed when Louis in 1685 revoked the Edict of Nantes—a measure which for a while had protected Protestants. Then followed brutal outrages upon Protestants in France. While England was horrified, and blazed with indignation, James secretly was delighted. He admitted still more Catholics to the army, and dismissed Halifax for refusing to repeal the Test Act. He informed the new Parliament that they must not attack his army appointments, and he demanded supplies for the maintenance of his troops.

The Commons, notwithstanding the electoral manipulations, possessed a considerable amount of sound English sentiment, and they refused supplies until certain grievances were redressed. They demanded the recall of all illegal army commissions, and they were supported by the Lords. James followed the customary Stuart method, and prorogued Parliament. He sought from the judges what he could not secure from Parliament, and he dismissed four judges who declined so to be used. In 1686 the subservient judges decided that a royal dispensation could set aside the Test Act—thus dispensing with certain penal statutes. James recklessly used this decision; many more Catholics were appointed to civil and military positions; and four Catholic peers were sworn in as members of the Privy Council. Catholic priests were allowed openly in England—including Jesuits. Public uneasiness and discontent grew rapidly, and James unwisely used his army to overawe London. At the same time, in his capacity as King of Scotland, he utilized his royal powers in that country to force Catholic

privileges. He acted similarly in Ireland, where his actions naturally did not arouse the same repugnance—that country being predominantly Catholic.

He then proceeded to an attack on Protestantism in England, especially upon those of the clergy who preached against the king's religion—an issue which he deemed to be within the royal prerogative, by virtue of his ecclesiastical supremacy. His ultimate design was to suppress Protestantism and completely establish Catholicism. In 1686 he appointed seven commissioners, with Jeffreys at their head, to suppress the condemnatory preachings, but these only became more intensified, and even Rome counselled moderation. James never listened to reason: he stubbornly pressed on his course. More Catholics replaced Protestants in high offices, and a Jesuit was called to the Privy Council. James' frankly proclaimed doctrine was that no one must oppose the king's will, and many officials were dismissed for refusal to aid in the repeal of the Test Act. The papal nuncio was received at Windsor, in the teeth of a statute forbidding diplomatic relations with Rome. James made the claim that he was "above the law." It is almost incredible that all through his brief and unhappy reign he should have pressed so doggedly and blindly for illegal personal power, and for Catholicism—against a nation inevitably certain to revolt sooner or later. Even devoted loyalists began to murmur at the ignoring of the law, and at last the king, despairing of coercing the Established Church, turned in 1687 to the Nonconformists, as Charles had done. He published a "Declaration of Indulgence" for both Nonconformists and Catholics—thus by his own

action setting aside several penal statutes and the Test Act. But national freedom meant more to the Nonconformists than religious toleration secured in that way, and the great majority declined the offer, while throughout England there was growing a deep resentment at James' tyrannies.

The king then looked to the Parliament, and asked it to repeal the Test Act. The Commons declined—with the usual result that James dissolved Parliament, and summoned a fresh one. Once more the boroughs were manipulated, and no effort was spared to bring in a more amenable House. For their refusals to aid in this particular work many Lord-Lieutenants were dismissed, and gradually it became clear, even to James, that a pliant Commons could not be secured. His most bigoted Catholic courtiers urged moderation, but instead the king, in deep resentment, further attacked Protestantism—at the universities—with threats, punishments, and dismissals of "fellows" to make room for Catholics. He stooped to ask assistance of William of Orange, who had been greatly disappointed that England had given no aid in Europe against France. William was aware of James' secret treaty with France, but he still hoped, by reconciling James and his Parliament, to bring England into the great Alliance. The Declaration of Indulgence in 1687 shattered that hope. James at this stage asked William to declare that he and Mary were in favour of repeal of the Test Act; the English nobles secretly advised William not to comply, and he accordingly refused.

James still clung to his hope of securing the repeal, and the more so because the queen was

pregnant, and a direct male heir would set aside the claims of William and Mary. The repeal in the king's view was necessary to enable him to set the stage for his son the future king, with a strong Catholic party and Catholic high officials. He renewed the Declaration of Indulgence. He called upon electors to send representatives to the next Parliament who would support the royal policy, and he suggested universal liberty of conscience. He decreed that every preacher was to read this Declaration to his congregation on two successive Sundays, but very few obeyed, and seven bishops signed a temperate protest addressed to the king. James ordered the Ecclesiastical Commission to oust them from their sees, but the commissioners, painfully alive to the increasingly dangerous temper of England, hesitated to carry out so rash an order. James then committed the bishops to the Tower—though his ministers strongly urged him to give way. The king's obstinacy grew with the danger; the bishops were tried; but not even a packed bench and jury would bring in a verdict of "guilty"—for the judges were alarmed at the popular indignation. Their "not guilty" verdict was received with widespread joy, and James at last realized that for practical purposes he stood alone—even his soldiery siding with the public. The Catholic leaders pressed him to yield, but to James this meant a complete reversal of all he had done to set up arbitrary personal rule in place of constitutional rule. "I will lose all, or win all," he said, and in that spirit he recklessly proceeded. He dismissed the two judges concerned and attempted to punish the clergy who refused to publish his

Declaration, but against the stubborn resistance of the nation he found himself impotent. He had counted upon French aid, and also upon support from a promised Irish army which was to land on the west coast; and England became deeply incensed at his attempt to bring in Irish troops to replace his own doubtful soldiery.

The nation became alarmed at the possibility of a Catholic successor to James if the queen had a son, and then the national leaders, gravely disturbed at the king's tyrannies, determined to act. A boy was born on the 20th June 1688, and ten days later the important men both in State and Church urged William of Orange to intervene in arms for the restoration of English liberty and for Protestantism. From several happenings in foreign affairs Englishmen had begun to suspect the existence of a secret alliance between James and Louis. If James' policy succeeded in England, it was realized that English aid would be rendered to France in the continental war now impending, and England disliked and distrusted France. William—always eager to free Europe from French domination—agreed to intervene. Sunderland, sensing disaster to the Stuart cause, disclosed some of James' secrets—in return for a promise of personal indemnity. Yet the king, deserted all round, remained stubborn and unconvinced. Louis endeavoured to help him by threatening Holland if William should invade England, and the bare announcement irretrievably damaged James in the eyes of his subjects. James roughly disavowed the French offer—but the damage had been done. At last really alarmed, the king in some panic mustered a considerable

army of about forty thousand men, including Scotch and Irish levies. But if the numbers seemed formidable the troops were not of dependable temper. At the last moment James sought safety by undertaking to reverse everything he had done, and he hastily took several steps in that direction—for instance closing all Catholic chapels and Jesuit schools.

It was, however, too late, for no one credited his sincerity. Deeply concerned to save the Catholic succession for his son, he once more turned to France—at the same time dismissing Sunderland. Then the formal declaration of William of Orange reached England. It demanded redress of grievances, a free Parliament to determine national issues such as the liberties of the subject and the succession to the throne, and it sought security for the established faith—with toleration for Nonconformists and freedom of conscience for Catholics. William landed with thirteen thousand men at Torbay; nobles and squires flocked to his standard; Scotland threw off the Stuart rule; and on all sides the revolution was successful. James' army, discontented and suspicious, did not strike a blow, many of its officers, including the brilliant Churchill, deserting to William. Even the king's daughter, Anne, went over—a great blow to her father. James tried to escape to France, but was captured by some fishermen, who mistook him for a Jesuit priest. He was brought to London. It really suited William and the English leaders to allow him to escape—because of legal difficulties about deposing him if he remained. Before finally escaping he maliciously burnt most of the writs summoning Parliament—

so as to destroy the legal means of maintaining continuous government. The Lords, however, as Privy Councillors, administered the more important affairs of state for a brief period, and then resigned their authorities to William on his arrival. The difficulty about the writs was surmounted by convening a body composed of the House of Lords, all the members of the Commons who had sat under Charles II, with the aldermen and councillors of London. They formally asked William to take over the provisional government of the kingdom, and they empowered him to issue letters to the electors requesting the sending of representatives to a convention. This body was to meet in January 1689, to decide such further constitutional steps as might be deemed necessary in order to secure continuity of legal government.

William and Mary (House of Orange, 1689-1702).— During this reign the people finally came into their own. In the "Convention" both Houses resolved against any recall of James, or negotiation with him, and they declared in favour of a *provisional government* under William III. At this point, however, the otherwise unanimous Convention disagreed: and indeed they were faced with a problem of curious intricacy. One section held that James had broken his contract with the people, that he had violated fundamental laws, and that in effect he had abdicated and had left the throne vacant. In the Lords a majority held that no crime could bring about a forfeiture of the Crown, that James therefore was still king, but that his tyranny had given the nation the right to take away from him the

exercise of governmental powers. They proposed instead to set up a regency. Yet another section—led by Danby—admitted that, in their view, James had ceased to be king, but denied that the throne in consequence was vacant—since from the moment of his abdication they contended that sovereignty vested in his daughter Mary. The regency method was rejected by one vote, and Danby's scheme was adopted.

William, however, declined to be Regent. As he tersely put it, he was not prepared to be "his wife's gentleman-usher." Mary too refused to accept the Crown otherwise than in conjunction with her husband. That settled the issue: William and Mary were acknowledged by the Convention as joint sovereigns, with full administrative power vested in William alone. But first the constitutional liberties of the people had to be safeguarded. A parliamentary committee drew up a "Declaration of Rights"—which was adopted. It recited *inter alia*:

(1) The misgovernment of James, his abdication, and the solemn resolve of Lords and Commons to assert the ancient rights and liberties of English subjects.

(2) It condemned as illegal the establishment of the Ecclesiastical Commission, and the raising of an army without parliamentary sanction.

(3) It denied the right of any king to suspend or dispense with laws, or to exact money save with the assent of Parliament.

(4) The nation was to be entitled to a free choice of representatives for Parliament, and to pure and merciful administration of justice.

(5) Liberty of debate to prevail in both Houses.

(6) Securities were insisted upon for the free exercise of their religion by all Protestants.

(7) The new sovereigns were to maintain the Protestant religion, also the laws and liberties of the nation.

(8) No Parliament was to last more than three years, and there never was to be any longer interval than three years.

The document ended by declaring the Prince and Princess of Orange to be King and Queen of England. This declaration was presented to them in February 1689, and the Crown was formally offered. William accepted on behalf of both, and stated their firm resolve to maintain the laws and to govern by the advice of Parliament. By his coronation oath William solemnly undertook to govern the people of England *and the Dominions* according to statutes as agreed in Parliament, its laws and customs, also to maintain the Protestant faith.

William was deeply concerned for his European interests, and was not moved by personal aims in England. His obvious desire was to knit together England and Holland, the two great Protestant countries, both owning formidable fleets, for the cause of Protestantism was very close to his heart. Much yet remained to be done to bring about his Great Alliance, and the indiscreet reception by Louis of James, under the title of King of England, materially assisted William's designs. England, with general approval, declared war on France—shortly followed by Holland, and presently both Austria and Spain joined the struggle.

But before England could operate with full efficiency in Europe, she had to settle her own troubles

in Scotland and Ireland. In Scotland, as a question of strict legality, William had no authority whatever—not being in the Stuart line. Scotland remedied the defect by following the example of England. The Scottish Parliament resolved that James had forfeited his crown by misgovernment, and offered the throne to William and Mary. It went on to enact a similar basis for future government in a “Claim of Rights”—while adding a proviso abolishing Prelacy. Gradually order was evolved, but the Scottish Parliament refused to pass a Toleration Bill as proposed by William, who could never see that “violence was suited to the advancement of religion.”

Both James and Louis looked to Ireland to delay and embarrass William’s plans. Under James almost every English Protestant official in Ireland had been dismissed, and replaced by Catholics, while an army fifty thousand strong had been built up gradually under Catholic officers. Owing to alarms locally engendered, hundreds of English families left Ireland. James, with some French officers and supplies of arms, landed in Ireland, but the wild Irish had become undisciplined and lawless under the lure of the local plunder left behind by the English refugees. They were no longer eager to support James in an invasion of England. The long, gallant, and successful defence of Protestant Londonderry gave William time to gather his forces—his best soldiers being at the moment in Europe with Churchill, later Marlborough. Presently William landed in Ireland with an army, and at the Battle of the Boyne, where James had with him seven thousand French troops in addition to Irish,

the Stuart fortunes were shattered, and James fled to France. Any lingering remnants of the war were brilliantly finished off by Churchill, and Ireland became quiescent for the time being.

In 1689 the Declaration of Rights became the "Bill of Rights"—through the action of the Convention now turned into a Parliament. This restored the character of the monarchy as it was constituted before the Tudor and Stuart encroachments. No more claims could be raised to the "divine right of kings," or to hereditary powers independent of the law of the realm, and since then no English monarch has made a claim not based upon some statute. William and Mary, and Anne, were sovereigns by virtue of the Bill of Rights, George I and his successors by virtue of the Act of Settlement. All alike were the creatures of a statute. Shortly after the passing of the Bill of Rights, Parliament claimed, and secured, the exclusive right to regulate English commerce.

The grants to the Crown of revenues for life, as Parliament now clearly realized, had fed dangerously the Stuart ambitions, and the first act of the new Parliament restricted the grant of supplies to four years. This could hardly be other than a great disappointment to William, who accepted the decision, probably wrongly, as evidencing distrust in himself after all he had done for the nation. Presently Parliament went further, and restricted grants to one year.

Up to this time the army had no legal status, and the country generally intensely disliked a standing army. But circumstances were changing, and permanent forces were becoming necessary because of

European possibilities. Furthermore there was no legal method of punishing strictly military offences. The Stuarts had assumed the power to billet soldiers on citizens, but that practice had been abolished. Parliament solved the difficulty by passing a "Mutiny Act," vesting certain authorities in the officers. It provided adequate pay: *but both powers and pay were for one year only*. The Mutiny Act has remained an annual measure since the Revolution, and thus annual sessions of Parliament became unavoidably necessary.

As to religion, a sense of common danger, under James, had united closely the Established Church and the Nonconformists, but with his fall this union ceased—to the disappointment of William. Active persecution had become repugnant to the nation, and the "Toleration Act" of 1689 practically established freedom of worship. The Established Church resented the prescribed oath of allegiance to William and Mary, and also the parliamentary claim to supremacy over the Church. Several non-juring bishops in consequence were deposed, with some dissension and weakening of internal church powers.

Parliament repealed a number of James' penalties; but whereas Whig and Tory, like the churches, to a considerable extent had been united against James—they now definitely separated and became political opponents. William endeavoured to keep them together, and included several of each party in his ministry, but a cleavage inevitably came about, for the Whigs desired to punish those Tories who had joined in the illegal actions of Charles II and James II. The Whig majority refused to pass William's

Act of Indemnity—while he for his part remained determined to avoid further bloodshed.

The English fleet, very badly commanded, failed against the French fleet, and in England there began to appear some reaction against William—because of unsuccessful war operations and the heavily increasing taxation. Some little renewed sympathy arose for James—especially in Ireland, and the term “Jacobite” came into use as indicating adherents of James. William dissolved Parliament, and *in his own name* issued a general pardon for all political offences, styled his “Act of Grace.” In the new Parliament of 1690 the majority were Tories, and William accepted the resignations of his more pronounced Whig ministers. He placed Danby at the head of the ministry.

The war still yielded no successes for William, and the landing of French sailors, coupled with the burning of Teignmouth, told for a while against him in England. Jacobite hopes and machinations revived, and the conduct even of Churchill was not above suspicion. Louis prepared for a descent upon England, but his fleet was met and heavily defeated—ending his open efforts to assist James. William’s throne at this time was made more secure by the detection and suppression of a Jacobite conspiracy. France at last was drained of resources, and as the tide of war began to turn against Louis, he inclined for peace. Thus the gallantly protracted struggle of the Great Alliance approached a successful completion.

The Revolution of 1688 regarded superficially seemed only to have transferred power from James to William and Mary, but actually it had done far

more than that. It had given a great impulse to the gradual transfer of essential sovereignty from the king to the House of Commons, and this from the moment when the Commons secured, through the Bill of Rights, the sole power to tax. From the date of its own resolve to grant only annual supplies, the Commons became supreme. It became impossible permanently to suspend its sittings, or for any length of time to oppose its will. Either course necessarily must have ended in leaving the government penniless—in breaking up the army and navy—and in suspending the public services.

While the *constitution* was thus being completed, the *machinery* of government did not adjust itself rapidly enough to the changing conditions. Ministers were not the servants of the Commons, they still remained the servants of the Crown—responsible only to the king. The Commons if necessary could impeach them for maladministration, and on a proven case could get them removed from office; but the king could replace them with his own nominees. This reacted unfavourably on the Commons for a time. They were not kept sufficiently informed of the aims of the ministry, and they lacked first-class leadership. The House was apt to indulge in frequent grumbles, and readily cast blame upon the king and his ministers. Then the astute Sunderland emerged from his retirement, and suggested an admirable solution. He proposed that the king should recognize the strength of the Commons, *and should select his ministers only from the dominant party there*. Hitherto there had been no premier in the modern sense. All ministers were the servants of the king, and only exceptional

ability at times placed one of them in the lead. Sunderland's proposal was designed to secure *unity of administration*, a feature previously unknown. The king adopted the proposal—gradually—with the result that each party grew into separate solidity, and the Commons at last obtained capable responsible leaders. Ministers ceased in all but name to be the king's servants. They became virtually an executive committee representing the majority will of the Commons. In that way responsible government, as we now understand it, came into being, and so it has continued to this day. The House of Commons makes and unmakes ministers—who remain in power only so long as the majority supports them, and they vanish into political oblivion as soon as that support is withdrawn.

The war lingered on—taxation was extremely burdensome—and English commerce suffered heavily at the hands of French privateers. Montagu, the very capable treasurer, relieved the situation in 1694 by raising a loan of £1,200,000, coupled with the creation of a National Bank. A new feature was the opening of the subscription lists to the public. The method was followed by further loans similarly floated, to meet the costs of the war, and the national debt grew rapidly. In one sense these obligations assisted William—for there was a general feeling that the Stuarts, if restored, would reject the claims of the lenders.

Queen Mary died in 1694, and the Whig ministry loyally supported William, now ruling alone. In return he assented to the Triennial Bill—after having vetoed it on the first presentation. At about this time Montague ably reformed the Currency.

At last the European war turned definitely against France, and Louis agreed to the Peace of Ryswick—on terms disadvantageous to France. He formally abandoned the cause of James and recognized William as rightful King of England. Thus ended for a time the irritating menace arising from the protracted conspiracies of the French king with both Charles II and James II against English liberties and religion.

The Commons insisted upon reduction of the army to ten thousand, for the country was very weary of war and its tremendous costs. William was disappointed, because he always desired an army in being in case of need in Europe. After the peace, English commerce quickly recovered, but the national debt had swelled to £26,000,000. Agitation arose to disband the army altogether, for the nation took some time to realize that it was no longer a political menace as it had been under the Stuarts. Nor did they see, as clearly as did William, the probability of a recrudescence of French aggressions. The army accordingly was reduced, but fortunately not disbanded altogether.

William's steadfast policy restored England's reputation abroad, and once more the nation assumed a commanding position in continental affairs. The Parliament of 1689 ousted the Whigs, and brought into power a Tory majority pledged to peace and economy. The army was further reduced to seven thousand, and William again reluctantly gave way. England was bent upon peace and its blessings—but not of course to the extent of any sacrifice of honour. The French success over the Spanish succession suddenly revived trouble in

Europe, primarily because France endeavoured to annex the Spanish Netherlands. That was a step which England would not tolerate, and the Parliament of 1701, led by Harley and pressed by the nation, supplied money and forces to assist Holland. Louis—notwithstanding the explicit prohibitions of the Peace of Ryswick—had recently promised the dying James to support his son's claims to the English throne. This amounted to a declaration of war on England, and the challenge was eagerly accepted. Other nations were drawn into the alliance against France, and Parliament voted forty thousand soldiers and as many sailors for the struggle.

It was enacted that correspondence with the new Pretender would be treason, and members of both Houses were sworn to uphold the succession of the House of Hanover. A new "Act of Succession" in 1701 excluded James and his son, and the reversion of the throne was vested in the children of the Protestant Sophia, Electress of Hanover—herself descended from James I. It was also provided that all English sovereigns must be Protestants; no king was to leave England without the assent of Parliament; and foreigners were excluded from all offices, civil and military. By the Act of Settlement judges were appointed *during good behaviour*, and only dismissible on addresses from the two Houses. The king was to act through ministers *responsible to Parliament*. All public business was to be done formally in the Privy Council, and its conclusions were to be signed by all members. Thus was completed the structure so ably set up by the Bill of Rights.

William was too ill to conduct the war himself, and he sent Marlborough, both to negotiate and to command in the field. In both directions Marlborough possessed transcendent abilities. He had deserted James at the critical hour, and he had plotted against William as the latter well knew. Mary's death, however, forced William to recall Anne to court, and the Marlboroughs, her great friends, returned with her. Marlborough's military genius could not be overlooked, and therefore William used him as a commander, while distrusting him as a man. Then William died, in February 1702, just as brighter prospects were opening in the campaigns against France in which he so capably had taken a conspicuous part.

Constitutional survey at the close of the reign of William III (1702).—Parliament: The Lords. The spiritual Lords were now relatively few. By statute of 1642, the Lords and Commons agreeing, but with a consent extorted from the reluctant Charles I, the spiritual Lords had been excluded altogether—for nineteen years. The Parliament of 1661 (Charles II) restored them. A statute had excluded them, and by statute they were recalled. In 1649 (Charles I) the temporal Lords were excluded, but this by resolution of the Commons alone. Shortly afterwards the House of Lords was abolished. It reappeared in 1660—after the Restoration—and the action of the Commons in excluding them was recorded as having been null and void.

The Commons. In the "Long" Parliament of Charles I (1640) there were 504 members, in that of 1641, 507 members, and in 1679 (Charles II),

513 members, of whom 409 represented English boroughs, 80 the English counties, and 24 Wales. The political union with Scotland (reign of Anne) later added 45, and that with Ireland (George III) brought in 100—raising the total to 658.

Electoral. The king's prerogative power to increase the number of borough members was not exercised after the Restoration. The electoral basis remained the "40s. freeholder" in the counties, while borough qualifications were various. Some boroughs recovered their old rights after the Revolution; others fell under the influence of the great landlords and became "pocket boroughs." The power to determine election disputes now vested solely in the Commons. For candidates there was no property qualification till 1710 (Anne). In the reign of William III it was enacted that no minister of the Crown could sit in the Commons, but the statute of 1707 corrected this undesirable measure by an indirect method—permitting vacation of the seat on appointment as minister, *and re-election*. Upon re-election the minister could sit in the Commons.

Privileges.—Freedom of speech. Eliot and others were arrested and sent to the Tower, a few days after the dissolution of Parliament, by Charles I in 1629—for speeches they had made in the House. They applied for bail, and the judges temporized. Finally three of the accused were charged with "sedition and tumult in Parliament," and the others were liberated. The Court condemned the three to prison, and the Long Parliament gravely protested. Years later, in 1667 (Charles II) both Houses

solemnly declared that particular court judgment to have been illegal. Since the Restoration there has been no attempt to punish words spoken in Parliament. The Bill of Rights expressly granted freedom of debate.

Freedom from arrest. Charles I, acting through the House of Lords, tried to arrest certain members of the Commons on the charge of treason, but the authority of the peers for such a purpose was bad—as only the Commons could impeach a commoner and have him legally tried. Ordinarily the commoners could claim trial by jury. In any case it was clear that no member could be arrested legally within the precincts of the House. Hampden and Pym could be arrested outside; this Charles I endeavoured to do, and unfortunately for him his action made civil war virtually certain.

For a time after the Restoration it was not possible to arrest a member of Parliament in certain civil cases—for instance for debt. Some members, in consequence of this immunity, carried matters to extremes—even claiming similar privileges for their servants and that their own property should be exempt from execution. These abuses were presently abolished.

Duration of Parliaments.—The first Parliament of Charles I met May 1625, and was dissolved August 1625. The Commons protested and refused grants of tonnage and poundage.

His second met February 1626—dissolved June 1626.

The third met March 1628—was prorogued June 1628—again January 1629—and dissolved March

1629. *For the next eleven years he had no Parliament.* His fourth met April 1640—dissolved May 1640. The Commons refused to grant supplies. The fifth met November 1640. This "Long" Parliament was still sitting in August 1642, when civil war began. It had done very remarkable work: it procured the attainder of Strafford—the exclusion of bishops from the Lords—and the abolition of the Court of the Star Chamber. It enacted that Parliaments were to be held at least every three years, and that no Parliament was to be dissolved under fifty days. Curiously enough the statute of Edward III establishing *annual* Parliaments was not repealed. In May 1641 Parliament resolved that the Houses then sitting were not to be dissolved *except by their own act*. The Long Parliament went on sitting, but after 1649 without the Lords. In December 1648—after excluding about 140 Presbyterian members—the remainder (styled the "Rump") sat for the trial of the king, and thereafter till April 1653 (Commonwealth).

The Commonwealth first Parliament met July 1654—the little or "Barebones" Parliament. It contained 140 members nominated by the Council of officers, and it sat till December 1654. It slightly overlapped the succeeding Parliament.

The second met September 1654—400 members—dissolved by Cromwell in January 1655.

The third met September 1656—when the crown was offered to Cromwell. The Upper House was re-instituted, but not with the old Lords. The Protector dissolved it in February 1658. He died in that year, and his son Richard held one or two brief and abortive Parliaments.

Charles II called his first Parliament in May 1661—the “Convention” Parliament. It lasted seventeen years, held sixteen sessions, and was dissolved in 1678.

His second met March 1679—dissolved July 1679.

The third met October 1680—dissolved January 1681.

His fourth met March 1681—and was dissolved after one week. Charles II carried on for four years without a Parliament—notwithstanding the law that Parliament was not to be in recess for more than three years. The statute of Edward III still remained unrepealed.

James II's first Parliament assembled May 1685. It was prorogued in November 1685, and did not sit again. Dissolved July 1687.

In the reign of William and Mary (1694) it was enacted that no Parliament was to last more than three years and that there was never to be any greater interval than three years. William withheld the royal assent from this Triennial Bill the first time it was submitted to him—one of the last instances of the exercise of the royal prerogative in that way. Presently the rule came in for Parliament to sit every year—this being necessary for grants of supplies and for the annual Mutiny Bill.

Sovereignty was now definitely in the “King in Parliament”—an issue practically settled by the Civil War. These two authorities conjointly had unrestricted power to alter the law. Parliament still remained in several ways very dependent upon the king. He summoned it and could dissolve it when he pleased, and he had the power to make

spiritual and temporal Lords when he so desired, and to create new boroughs.

Under James I it was held that royal "proclamations" had only limited force, for instance in that they could not create new offences, yet the Court of the Star Chamber enforced a number of proclamations of very doubtful legality. Charles I also enforced many proclamations. He fixed prices by proclamation; houses were resumed and demolished under this type of authority in order to make room for St Paul's Cathedral; and similarly all persons then in London, having residences in the country, were directed to leave London. The statute of 1641 (Charles I) abolished the Star Chamber, and with it disappeared the power to enforce such proclamations.

Without strictly legal warrant the king had enjoyed a somewhat uncertain power to dispense with statutes—usually in connexion with minor matters such as exemptions granted to individuals rather than generally, personal pardons, and refusals to prosecute. This provoked little protest till the 17th century. The great lawyer Coke held that the king could *dispense with any statute which trenched upon the royal prerogative*—but this on very doubtful grounds, and the question admittedly was one of great difficulty. James II used this power to set aside statutes which denied office to Papists—by means of royal dispensations to individuals. The Courts supported him—and he then attempted to suspend statutes *generally*. By his Declaration of Indulgence, for instance, certain penal laws were suspended. The Bill of Rights definitely put an

end to all royal *suspending*, but was rather more qualified as to *dispensing*.

Finance.—In the reign of Charles I the Court of Exchequer decided that the king could impose a duty on imports. Parliament protested, yet duties on inward goods continued to be levied. The Commons then refused to grant tonnage and poundage for the life of the king. They made this grant for one year only—but the Lords rejected so restricted a concession. The king dissolved Parliament, and went on collecting the duties. Indirect taxation did not, however, suffice for Charles' wants, and he levied forced loans. Five knights who refused to pay were imprisoned, and they applied unsuccessfully for writs under Habeas Corpus. In his third Parliament Charles had to assent to the Petition of Rights, and under it no man thereafter was to be constrained to make gifts or loans, or pay taxes, *without the consent of Parliament*. No doubt Parliament intended also to prevent the levying of customs duties ("impositions") without its consent, but the Court of Exchequer had declared these legal—and Charles continued to levy. There were refusals to pay, followed by imprisonment.

During the long parliamentary interval of eleven years Charles looked in other directions for money; and it was insisted that seaports and maritime counties were under the obligation to furnish the king with ships—later commuted to "ship-money." Even some inland counties were levied upon under this plea. Hampden refused to pay. Clearly here was a tax not sanctioned by Parliament, and the Bill of Rights (1628) had negatived expressly any action

of that kind. The Courts supported the king, on the ground that the royal prerogative was "above statute." The Long Parliament later declared that judgment to have been void—because the imposition had lacked parliamentary warrant. To this the king reluctantly assented in 1641—while protesting that his predecessors had regarded this as their undoubted right. Thus was won the protracted parliamentary contest with the king, and it is well to remember that this was *before* the Civil War broke out. James II is credited with levying moneys by virtue of the royal prerogative, and without parliamentary consent; but the Bill of Rights for practical purposes had settled that issue for ever.

Control of expenditure.—Parliament claimed control, but under the despotic Tudors the Houses hardly ventured to intervene. In 1624 (James I) the precedent was set for specific appropriation of supplies. Money for instance was granted for the relief of the Palatinate—to be in the hands of named commissioners. This occurred again under Charles I, but civil war was then brewing. During the Rebellion the national funds were managed by a parliamentary committee. In 1665 (Charles II) large sums were voted, and were set apart for the Dutch war. After the Revolution this practice of appropriation became definitely settled. Money was voted for specific purposes, and the Lords of the treasury were directed to see that it was not used otherwise. Before the death of William III a certain sum was assigned for the king's use—afterwards called the "civil list," and the national funds no longer passed through the king's pocket, at the

king's disposition. Danby was impeached for breach of an appropriation clause—though the action was not pressed. These new methods incidentally made it necessary for Parliament to meet every year, for the annual appropriation votes.

Money Bills.—In 1661 and 1671 (Charles II) the Commons claimed that *they* alone could originate money bills, and that the Lords should have no authority to alter these measures. The Lords gradually gave way, though many borderline cases afterwards caused disputes. In all money matters the Commons became, in point of actual power, the superior House.

Clergy taxes.—During the Commonwealth the clergy were taxed through Parliament as were the laity. They no longer in their own convocations voluntarily taxed themselves, for later confirmation by Parliament. After the Restoration they began once more to tax themselves, but in 1662 the practice finally ended, and thereafter they were taxed by Parliament. In this quiet fashion a great ecclesiastical privilege passed away. There was no special legislation—no disturbance—just a private arrangement between the chancellor and the archbishop. The clergy, as one of the "three Estates" in Parliament, disappeared finally. Convocations were prorogued by royal writ in 1717 (George I), and were not summoned again till 1861.

Justice.—Gradually the theory gained strength that any actions of the Court of the Star Chamber which travelled outside the statute of Henry VII were illegal, and in 1641 the Long Parliament of

Charles I formally abolished the Court, and forbade the King's Council to meddle in civil causes. The Council still could commit to prison, but it could no longer hear and determine causes. This was the Court which had punished jurors for perverse verdicts, and so had often swayed the course of justice at the instance of the king or his intimate advisers. At the same time the Long Parliament abolished the Court of High Commission for ecclesiastical issues. James II, in the teeth of statutes, had entrusted the government of the Church to seven commissioners—with powers to suspend, deprive, and excommunicate—his fixed aim being no less than the complete restoration of the Catholic religion. This misuse of power was corrected by the Bill of Rights. The Chancery Court, however, escaped abolition. The "Barebones" Parliament debated a proposal to abolish it, but the lawyers were too clever. After the Restoration *equity* became recognized, and its principles were developed gradually, as a supplementary system of case law offering additional remedies.

At last the independence of judges was secured. The Stuarts dismissed judges who withstood the royal will, and in consequence these officers of the law were often merely servile instruments of the Crown. They held office at the king's pleasure. In the reign of William III on the contrary the judges *were commissioned during good behaviour*. William at first refused his assent, but their independence was secured by the Act of Settlement. Judges thereafter were only removable on an address from both Houses.

Could the King or his Council legally commit to prison? In Elizabeth's day the judges were uncertain. Charles I committed five knights to prison for refusal to contribute to his forced loans. They obtained writs under Habeas Corpus, but the gaoler refused to deliver them to a court for a hearing—on the ground that their cases were governed by the king's command under the warrant of the King's Council. The Bill of Rights—making reference back to Magna Charta—corrected this undesirable situation.

The House of Lords had succeeded in establishing its right to hear appeals from the Court of Chancery, but had failed in its claim to act as a court of first instance in civil cases. The Parliament determined this issue—after many quarrels between the two Houses. As the depositary of the judicial power of Parliament, the House of Lords became a Court to correct the errors of Common Law Courts. It was the court of trial of peers indicted for treason or felony, and it was the tribunal for impeachments. There have been only some seventy impeachments in English history, and of these about seventeen or eighteen occurred in three years (1640-1642) in the reign of Charles I.

Acts of Attainder were not abolished—though this method had been used unjustly at times. In 1641 Strafford perished under such an act, and in 1645, by ordinance of the two Houses, with Charles opposing, Laud was executed. In 1660 (Charles II) the Regicides were dealt with by this method, and in 1696 (William III) Sir John Fenwick so perished for an attempt to assassinate the king. This

was the last death penalty case, but lesser offences were treated by Acts of Attainder in later years.

The King's Council.—Though the Court of the Star Chamber was abolished in 1641, the King's Council remained. The king continued to be advised by it after the Restoration—but only by a few selected members of it—and *these gradually became the modern Cabinet*. It retained a few remnants of judicial power—for instance in Admiralty matters, and also civil and criminal cases on appeal from the king's dominions overseas. Thus the Privy Council became the ultimate tribunal for a vast empire—though it had no jurisdiction for Great Britain itself. It acted—and still acts—only for overseas interests. The work is done by a special body of judges who are members of the Privy Council, and its full title is *the Judicial Committee of the Privy Council*.

Army.—In earlier days “royal proclamations” of martial law had been issued as late as James I—probably illegally. During the Stuart era a standing army gradually was becoming a necessity—with adequate disciplinary rules to govern it. The billeting of soldiers had caused trouble, but this was corrected by the Bill of Rights, which itself glanced back to the rights secured by Magna Charta. That settled the law, but not yet finally the practice. Another undetermined issue was that of the command, and on this point the King and his Parliament were at odds. Historically the king had the right to command, but the Houses no longer would consent to this, suspecting as they did Stuart designs to overthrow Parliament. They specifically claimed

authority over the militia; and this was one of the disputed questions which precipitated the Civil War. During the Commonwealth the army dominated the situation, but by 1661 (Charles II) the army had become hateful to the nation—and in that year the king's general authority was restored. The Convention Parliament (Charles II) passed an act to disband the army, and the king reluctantly assented. He retained a guard; and still the troubles over billeting continued. In 1666 articles were passed providing for courts martial designed to keep guards and soldiers in order. Then Clarendon was impeached—for urging the king to maintain a standing army with intent to govern by its backing, instead of constitutionally through Parliament. Forces could not, however, be maintained without money, and in 1666 £30,000 was granted for guards. Later again funds were voted for the purpose of disbanding the army, and Seymour was impeached for misappropriation. He was charged with using the money to retain the soldiers instead of disbanding them. Danby (treasurer) also was impeached—for attempting to raise an army for possible use in England, under pretence of a war with France. By one device or another both Charles II and James II managed to maintain an army—in the case of the latter about sixteen thousand strong. The Bill of Rights declared that James had raised and maintained illegally an army *in peace time* without parliamentary consent, and also that his billeting had been illegal.

Anne (the last of the Stuarts, 1702-1714).—Party government, as we now know it, may be said to

have established itself in this reign: government by a ministry selected from the majority party in the Commons—and not chosen by the king from both sides. The political events of the previous reign, largely through the advice of Sunderland, had prepared the way for this new development.

Dull and sluggish of temper, Anne was both proud and stubborn. When she came to the throne, the succession no longer agitated the public mind: and the one serious question of the moment was the queen's attitude towards the war. She promptly took up the task where William had left it, and this with complete confidence in Marlborough—while Parliament enthusiastically supported her. For ten years Marlborough led the allied cause with supreme ability—alike in the Council and in the field. His great victory of Blenheim shattered the French reputation for invincibility, and in 1706 Ramillies completed the deliverance of Flanders from the grip of France.

The following year saw the final union of England and Scotland. Rifts had been caused between the two countries through the question of episcopacy, disputes over appropriate shares of the national debt, and trade jealousies, as well as by the Scottish Act excluding the House of Hanover. But three years of earnest negotiations surmounted these difficulties—and the two countries became "United Great Britain," the question of the Crown being deemed to be decided by the English Act of Settlement. The Scottish church and legal system were respected. All inter-trading was made free, and there was to be for the future one uniform system of taxation and coinage. Scotland sent 45

members to Westminster, to join the 513 of England, and 16 Scottish peers were added to the 108 English peers. Every sovereign was to swear to maintain the Established Presbyterian Church of Scotland. The Scottish Parliament adopted this arrangement, and the queen gave her formal assent in 1707. England gained substantially by the removal of all danger in the north, while Scotland profited materially from the enlarged trading facilities.

Marlborough had carried on the government through a coalition of Whigs with moderate Tories, and this was the last attempt to rule England otherwise than through party government. The Tories gradually were becoming averse to the war—for she relied on them and detested the Whigs. Marlborough on the contrary made concessions to the Whigs, and virtually broke with the Tories. The Whig ministry, it is interesting to note, included young Walpole—destined to become a great parliamentary leader. Anne quarrelled violently with the Marlboroughs. She regarded party government with suspicion, as leading to a probable enslavement of the Crown. She claimed the right herself to appoint ministers from both sides, for her sluggish mind was unable to move with the times.

France, striving for a renewal of the war, was again defeated by Marlborough at Oudenarde, and Louis at last sought peace. He made overtures which included the recognition of Anne, and the banishment of the Pretender from France. Since their war policy kept the Whigs in power, they

were not specially anxious for peace; and they demanded impossible terms. Then the Pyrrhic and bloody victory of Malplaquet greatly increased the desire of England as well as France for peace, but still the Whig ministry clung obstinately to its war policy. However, a national debt of £50,000,000, coupled with great popular clamour, forced their hands. Anne, no longer led by Marlborough, named a Tory ministry, with St John (later Lord Bolingbroke) and Harley (later Lord Oxford) at its head. Marlborough was lured into a false position, and Bolingbroke in 1711 arranged secretly for peace with France. Marlborough was dismissed from the command, and was charged with peculation. He was condemned by a vote of the Commons, and withdrew from England.

The Treaty of Utrecht ended the war between France and the allies England and Holland, and under its terms Spain ceded Gibraltar and Minorca to England, while France expelled the Pretender, and gave formal recognition to Anne. Anne's ill-health led to much political manoeuvring for power between Whigs and Tories, intensified through her impending death. At this time Jacobite hopes revived in several quarters. In July 1714 Anne died of apoplexy: the Privy Council met at once, and the right of succession to the throne of the House of Hanover was acknowledged. The Jacobites were unprepared for serious action, and George, Elector of Hanover, was proclaimed King George I of England, without opposition.

George I (Hanover, 1714-1727).—The Peace of Utrecht left England in the position of main barrier

against the ambitions of the Bourbons; and to this great purpose she had the incentive that necessarily she must remain a prey to anxiety as long as the Stuart Pretender held the support of France. England became the guardian of the balance of power opposed to France, and her importance in this rôle caused the European nations for the first time to evince a desire to study the English constitution, and English life, literature, and science. While materially influencing the complicated factors at work on the Continent, English statesmen employed an interminable series of meddlesome interventions, protests, subsidies, guarantees, intrigues, blusters, and even lies, yet their steadfast general policy gave Europe twenty-five years peace—until the rise of Prussia under Frederick the Great.

The internal politics of the era of the Georges—from Bolingbroke to Burke—were marred by much unfairness, scurrility, and bribery; yet its leaders had a greater sense of national duty than their predecessors—under the spur of that public opinion which came into being with the triumph of Puritanism over Charles I, and thereafter was a potent and increasing force. Both kings and the Church had ceased to affect to any important degree the political current in England. Education for the masses as yet was sadly lacking; there existed no effective police system; and society was flagrantly immoral. Religion seemed lifeless, but its forces only slumbered. When the Dissenters urged the repeal of the Test Act, Walpole openly avowed his dread of awakening religious passions. Instead of thus raising a storm he adopted the curious expedient of passing annual Acts of Indemnity.

George I and George II were really strangers in England, and insignificant as men. During their reigns the power of the Crown was absolutely dormant, with the result that their inaction and passivity completely consolidated the supremacy of the House of Commons. The temper of the first George was that of a gentleman usher, and all he really wanted was money for himself and his favourites. George II had the characteristics of a drill sergeant—was led by his capable wife Caroline—and she in turn by Walpole. William III had retained in his own hands the control of foreign affairs, and he had gone so far as to veto, temporarily, two bills. Anne had clung stubbornly to some of the royal powers, mainly in ecclesiastical matters, but under the Georges all such reservations passed away. *No sovereign since Anne has appeared at a Cabinet Council meeting, or has refused assent to an Act of Parliament.* England at this time was governed by the dominant political party—through its Whig ministers, while the Tories for some years lost force as the result of their traffickings with the Jacobite cause. The Whig ministers, under Walpole, were men of marked ability; they stood for free government, freedom of conscience, free speech, liberty of the press, and pure administration of justice. They cemented their power with fine discipline within the party—sound leadership—and careful attention to trade and finance. They did not hesitate to manipulate the boroughs, and within Parliament they resorted to some bribery. The Commons had become unquestionably supreme, and they had the support of the king—who felt that he owed his throne to their action. Parliament set up

constitutional government as we know it to-day, and much of this work was due to the genius of Robert Walpole.

The first task of the ministry was to meet a desperate attempt by the Pretender James to gain the throne. Active Jacobites were few in England; the Tories were dispirited; and James had relied too confidently upon support from Scotland and Ireland. His attempt was wholly unsuccessful.

Walpole's ministers, in order to satisfy the Non-conformists, repealed the Schism and Occasional Conformity Acts. At the same time, in order to ensure some permanence of policy for the Commons, the three-year parliamentary term was extended to seven. By a skilful re-arrangement abroad peace was guaranteed by the very exceptional alliance of England, Holland, and France, a move which incidentally detached France entirely from the Pretender. George I was also Elector of Hanover—a detriment really, because his heart was with his native state, and he sought to use England against Sweden—the latter the enemy of Hanover. He so far succeeded that the English fleet was used in the Baltic, one result being the dissolution of the Whig ministry. Walpole resigned, and in 1720 his successor Sunderland sought to curb the power of the House of Lords by a bill to fix its numbers. The underlying idea was to prevent any possibility of royal influence over that chamber by the creation of new peers, that is to say "swamping." Walpole opposed the measure, and the bill was defeated. In consequence he returned to power.

At this time the famous South Sea Bubble burst, and wrecked several of Walpole's political rivals.

For twenty years he led the Government with supreme ability—always steadfastly aiming at peace abroad. He hated intolerance; his administration was always economical; and he wisely encouraged trade. He removed duties from many exports and imports, and he allowed the American colonies to export to any country, instead of exclusively to England. The nation advanced rapidly in prosperity and population, and was very content with its rulers. The Jacobite cause weakened from lack of opportunity. Walpole did not risk the repeal of acts against Catholics and Dissenters, but these to a large extent became inoperative. Catholic worship was unhindered, and annual Indemnity Acts protected Dissenters. Administration of justice was sound; personal liberty was respected; and there now existed a free press—notwithstanding increasingly scurrilous attacks upon Walpole.

Spain created trouble, for she was very anxious to regain her trade monopoly with America. This led to her unsuccessful attack on Gibraltar, and only Walpole's wisely temperate action averted a European conflagration. George I died in 1727—on a journey to Hanover—with Walpole still in power in England.

George II (Hanover, 1727-1760).—The king intensely disliked Walpole, but was unable to do without him; while Queen Caroline was determined that there should be no change of ministry. Walpole presently quite overcame the king's prejudice, and gained his complete confidence. Walpole placated country interests with a reduced land tax, and the nation became widely prosperous. Unfor-

Unfortunately Walpole had grown very jealous of any encroachment upon his personal power. Several of his colleagues retired from the ministry, and became politically hostile, while the younger Whigs, including William Pitt, also at times opposed his policy. A sense of social virtue was growing in the country—and this new sentiment resented Walpole's political cynicism. Religion too was stirring, particularly at Oxford, in a new movement styled "Methodism"—under Whitfield and later John Wesley. The movement reacted upon the Church of England. It broke up that Church's lethargy, and led to its internal reform.

France was reviving and was beginning to look seriously to the East for expansion, also to America, but always the British fleet stood in the way. Spain too resented bitterly the restrictive influence of that fleet, as a bar to her dreams of renewed trade monopolies. War broke out in Europe; but while both king and queen desired England to join in the struggle, Walpole adhered to his peace policy. The nation watched with apprehension the growth of French power, increased by the alliance between France and Spain under Bourbon kings, which broke up the recent alliance between England, Holland, and France. The new allies intended that Spain should do its utmost to damage English commerce, while France was to support Spain in an attack upon Gibraltar whenever opportunity offered. The Spanish trade restrictions roused England to frenzy—and forced Walpole's hands. The Tories were increasing their strength in Parliament, and were bitterly opposed to Walpole.

In 1739 England went to war with Spain, and

France promptly joined her new ally. English operations were unsuccessful, and Walpole was charged with starving the war effort, with the result that he resigned in 1742. His policy, however, was carried on by the reconstituted Whig ministry. At this time began the long turmoil in Europe, following upon the Austrian "Pragmatic Sanction" concerning Maria Teresa—complicated by the rapid rise of Prussia under Frederick the Great. England inevitably was drawn into the vortex, and George II in person commanded the English forces at the indecisive Battle of Dettingen. He was very jealous for Hanover—as against the increasing power of Prussia, but England did not share his ideas, and was sympathetic towards a Protestant country under Frederick. The defeat of an English army at Fontenoy revived Jacobite hopes, and in 1744 France assisted the grandson of James in a proposed descent on Scotland. A storm wrecked the French fleet, but the "Young Pretender" Charles landed in Scotland in 1745 with a few friends. The clans rallied to his side, but few in England supported him. The long peace and prosperity had done their work for the House of Hanover, and Jacobitism for all practical purposes was dead. After some fighting, and a final defeat, the Young Pretender escaped to France.

The war lingered on, and between France and England it became an issue which nation was to control India and North America. In India the struggle was settled by Clive at Plassey, against the great French commander Dupleix; while Wolfe's successful attack on Montcalm at Quebec ousted France from North America. In America the New

England colonies were fast growing into strength and importance. As yet they had not been taxed directly by England, which added greatly to its resources through its monopoly of their trade. For two hundred years the colonies largely had governed themselves, and William Pitt had declined very recently to tax them directly.

George II attempted to set up a treaty with Russia—as against Frederick of Prussia, who already was facing more than one enemy. Pitt, however, strongly resisted; a Russian subsidy was refused by Parliament; and instead a treaty was made with Prussia. The Seven Years' War followed, radically altering the destinies of half Europe. England suffered disasters at first, in Europe as well as in America, and the national spirit and reputation seemed to be at a very low ebb. Pitt at this stage came to the front, backed by public opinion—the “Great Commoner” as he was called. Intensely patriotic and incorruptible—he saved England from its lethargy and its humiliations. His joint ministry with Newcastle was the last and the greatest of the purely Whig ministries. Pitt's subsidies enabled Frederick finally to triumph over his many military setbacks. The course of events in India and Canada has been described already. In Europe English forces defeated the French at Minden on land and at Quiberon at sea. The Seven Years' War re-created Germany, while France lost a great colonial empire to England. In 1770 Captain Cook annexed Australia and New Zealand for Britain, and thereafter colonization became an important part of the national work. Here modern England begins.

The New England colonies, however, were beginning to chafe under the Mother Country's monopoly of their trade, and although they remained loyal to the tie, their democratic forms of government made them restless under restraint from a distance. Further, they no longer needed protection against France. England on the other hand had incurred great war debts, due in part to the American campaigns, and she thought that young America might well share in the burden. At the same time it was realized fairly clearly in England that any effort in that direction was likely to be bitterly resisted by the colonists. There had been evidence already of discontent here and there, with frequent bickerings between the imported governors and the local legislatures.

George III (Hanover, 1760-1820).—George III came to the throne with a mind resolved upon crushing the republican spirit of the colonists and destroying their dreams of severance, while tightening more firmly the fiscal and administrative bonds between England and her colonies. We shall see how unhappily in the event his schemes worked out. As regards the position of England generally at his accession, it may be said that as Walpole had laid the foundations of England's prosperity—so, during this reign, Pitt gave his country an unquestioned greatness and power in the Concert of Europe.

George was determined to play a personal part in English affairs, and in ten years he reduced constitutional government to a shadow, and converted the loyalty of a nation to the deepest dis-

content. In twenty years he forced the American colonies into revolt and independence, and brought England to what seemed at the time the brink of ruin. Small-minded—poorly educated—and with few natural gifts, yet as a man he was superior to his two predecessors, and also to his son George IV. He was simple, hard-working, and not without a sense of public duty—but this only on his own terms. Lacking vision and politically obstinate, he could not be said to have been in any sense a great king, yet he had redeeming features, notwithstanding the rather disastrous record of his reign.* He regarded all prominent men with jealousy, and desired to govern, not against the law, but so as to be himself free from the dictation of ministers. The result was a chaos of political and social disorder—ending in the exact opposite of the king's intention. There came about, very gradually, a transfer of power from a governing class *to the nation as a whole*—the latter hitherto somewhat inarticulate. George had struggled to set aside this dominance of the great families—so as to establish his own sovereignty. He succeeded in converting England into a democratic republic under monarchical forms. If the first two Georges by their inertia assisted materially to bring about this condition—George III with his misguided energy assisted still more.

The Parliament, as we have seen, had become supreme in the long contest with kings, but so far the great majority of the English people found it difficult to control the course of government. This

* In the later titanic struggle with France he gave his ministers cordial and effective support.

was due partly to the bad electoral system, and partly to the temporary eclipse of the Tories, resulting in a Whig minority in power. But a change was coming, owing to the passing of Jacobitism, the fact that Pitt rather than Parliament represented the nation, and that the Tories, giving support to the king, were growing in numbers and influence. There were many "rotten" boroughs which depended on the purse or prestige of politicians, and the suffrage was absurdly limited and unequal. Out of a total population of eight millions only some sixteen thousand were electors. Seats were bought and sold at prices which rose to £4000—with the inevitable result of a very non-representative House. The nation was becoming thoroughly disgusted with these trickeries and dishonesties. The expansion of journalism too was creating a much better informed public, and the press was becoming a political power.

The king still controlled promotions in Church and Army, also appointments in the civil administration and at Court, and held jealously to this fairly extensive field of patronage. He took advantage of the Whig dissensions, their intrigues and corruptions, and also their growing hostility to Pitt—who for his part courageously continued to support Prussia. The costs of the war and the subsidies to Prussia were very heavy, and there was much unrest inside and outside Parliament. At this critical stage the king practically forced the ministry to accept his creature Bute as secretary of state; and Bute, under royal urging, pressed for peace and the desertion of Prussia. Pitt—by a bare majority of one—carried a resolution of refusal to

negotiate with France. He strongly urged a material enlargement of England's war operations, but his proposals were rejected, and he resigned. The break with Pitt was a death-blow to the Whigs, and the king succeeded in forcing the other Whig ministers out of office. Bute remained the king's mouthpiece, and George's next step was to bring about peace and stop the subsidies to Prussia. Prussia in consequence was brought to the very brink of disaster, and narrowly was saved by the fact that a general peace supervened soon afterwards. Under its terms—as affecting England—France formally abandoned her claims upon India and Canada. George considered that as long as peace continued, and the nation remained quiescent, he could manage the House of Commons by the same methods of bribery and borough jobbery as the Whigs had used. Great sums were so spent, as much as £25,000 in a single day. A Parliament assembled in that way was unlikely to represent the best in the nation. Parliament approved George's peace, and gave him a free hand in America.

The public debt had become £140,000,000, and the old question revived whether the colonies should bear their part of the burden. Under guidance from the king and Bute the trade monopoly over the colonies was tightened, and smuggling into America was suppressed. A stamp duty was imposed, and at the same time, in order to provide for possibilities, a force of ten thousand soldiers was maintained in the colonies, quartered on the inhabitants. Had Bute lasted the rebellion probably would have started earlier. The nation deeply resented the slavish subjection of Parliament to the

King, and the general ill-will expressed itself in many directions in uproar and riot—no more practical method being available. Pitt was hotly opposed to Bute's measures, and he rather than Parliament represented the national sentiment. Then John Wilkes emerged as a leader of public opinion. He urged the rights of the constituencies against the despotism of an unrepresentative Parliament; he attacked secret parliamentary proceedings, and he fought for freedom of the press to discuss public affairs. He vehemently attacked Bute, and denounced fiercely both the Cabinet and its peace. Bute bent before the storm, and withdrew from the ministry in 1763. His successor Grenville—less pliant to the king's will—was a staunch supporter of Parliament. He struck at the press and at Wilkes; forty-nine persons were seized; and though Wilkes was a member of Parliament he was arrested and sent to the Tower—illegally. Wilkes was immediately released, on the decision of the Court of Common Pleas, but was promptly prosecuted for libel. Parliament urged on the prosecution—Pitt strongly dissenting—and the nation solidly backing Pitt. Wilkes fled to France, and was formally expelled from the Commons, an act which led to a storm of popular indignation.

Meantime Grenville had decided to raise about £200,000 by taxation of the colonists—through the medium of an excise duty, as the colonists' contribution towards the English public debt. The colonists resisted the demand, on the ground that they had no representation at Westminster. As yet no open protests had been made by the colonists against the English trade monopoly. Grenville

strengthened the monopoly pressure by his Navigation Act, and as a reprisal the colonists boycotted English goods. In 1765 Grenville revived the obnoxious Stamp Act. Rather than submit to this "taxation without representation" the colonists voluntarily offered a larger sum *as a grant made by themselves*, and not by way of external tax. Many people in England sympathized with their attitude.

A sharp difference with Grenville led the king to ask Pitt to return to office, largely on his own terms, which included abolition of general warrants of arrest, with a change of policy towards America and also towards Europe. Pitt unfortunately was unable to form a ministry, as in the House he had few followers. Then Rockingham, a weak administrator, came into office.

The colonists definitely refused to pay stamp duties, and Pitt in the House supported their attitude. He demanded repeal—and for this he incurred George's undying hostility. Under strong general pressure Rockingham finally decided to repeal, but this was to be coupled with a solemn declaration that Parliament was supreme over the colonies "in all cases whatsoever." The repeal was passed by a large majority, against the king's strenuous opposition. He bribed freely, in the hope of retaining power in his own hands, but unsuccessfully—mainly because of the rapidly increasing strength of public opinion. The growing heat of national sentiment compelled Rockingham's resignation, and in 1766—to the general satisfaction—Pitt returned to power, but a power residing in the nation rather than in Parliament. To the general surprise and disappoint-

ment Pitt became Earl of Chatham, and took his seat in the Lords. Early in 1767 he became seriously ill—and his ministry fell to pieces.

After a most corrupt election a new Parliament met in 1768, and Wilkes, now returned to England, was re-elected for Middlesex. Except for its serious side, the Wilkes case then assumed the aspect of high farce. Pitt's illness gave the king an almost clear field, and very unwisely he pressed for Wilkes' expulsion and punishment. Wilkes was imprisoned, and the country broke into a tumult with riotings. Lord Chatham resigned. The Commons then expelled Wilkes—but he was promptly re-elected. The Commons unconstitutionally declared him incapable of sitting, and issued a fresh writ. Wilkes again was elected, and the House again expelled him. He was yet again elected, and the Commons adopted the injudicious step of declaring his defeated opponent to be the sitting member. The country rose indignantly in protest, and boldly declared that the Commons did not represent the nation. The king stubbornly declined to yield, and Pitt, now slightly recovered, proposed a scheme of reform of the Commons. He designed to make it more representative by increasing the number of the county members. Unfortunately he had little support, except in the nation outside Parliament. Meetings began to be held throughout the land, giving strong expression to public opinion. In 1771 the Commons, jealous for their power, and caring little for the national view, forbade by proclamation the publication of debates, and sought to arrest seven offending printers. The magistrates released the printers, on the ground that the proclamation was illegal,

and the public supported the magistrates. The Commons had to relinquish their attempt. After this incident debates were reported—thus materially assisting the nation to lessen parliamentary abuses. The publication of the debates educated public opinion, and increased the national interest in politics. The press became a powerful influence in the nation's daily concerns.

The king set aside Lord Chatham's proposed reform, and plunged eagerly into the contest with the colonists—whom he already regarded as rebels. He bitterly regretted any concessions made to them, such as the recent repeal of the Stamp Act. Trouble inevitably broke out over the quartering of English soldiers on the colonists, and the ministry—pressed by the king—decided to levy duties on certain goods entering America. At the same time the Assemblies of New York and Massachusetts were suspended for contumacy, and English troops occupied Boston, because of the danger of an uprising. The stern unyielding attitude of the colonists induced the ministry to recall the troops, and to drop most of the duties. The king, however, insisted on retaining the duty on tea—and the colonists retaliated by boycotting all tea supplies from England. The king was practically supreme, the subservient Lord North being at the head of a weak and pliant ministry which suffered North's wiser views to give way to those of the king. On one point North agreed with the king—for he, like many other parliamentarians of the day, was opposed to any serious recognition of public opinion. Feeling was beginning to run high against both Parliament and the Ministry—the latter a mere cloak for the king. The

king meddled even in the details of the conduct of debates in the House, and personally exercised wide patronage, in order to maintain a hold over members. He determined the relative rank of ministers; he kept a finger on the appointments of law and army officers; he nominated and appointed judges, bishops, and even deans. He conferred or refused titles, honours, and pensions, and all this extensive field was dexterously used to influence the Commons in favour of the king's policy. The disgrace of the rupture with the colonies practically lies at his door.

The Boston "tea party" furnished him with the opportunity, and in 1774 that port was closed to commerce by an act of the English Parliament. Massachusetts was deprived of some of its charter liberties, and the business of selecting members for the local councils was transferred to the governor—who was empowered to *send to England for trial* all persons charged in connexion with the Boston disturbance. The king secretly was delighted over these developments—leading, as in his opinion they would, to the crushing of the colonists. Additional troops were sent to America. The English nation desired reconciliation, and in 1775 Chatham intervened in the hope of averting strife. His proposal, briefly, was to reverse all recent oppressive steps. The Lords, however, rejected his proposals, and the eight years struggle began. The colonists threw open their ports to the commerce of the world, in defiance of the Navigation Acts; and their formal Declaration of Independence was made on the 4th July 1776. They entered into an alliance with France in 1778, and that country materially assisted

them. North, when it was too late, attempted conciliation, and offered a pledge to renounce for ever the right of direct taxation. George, however, remained immovably determined on war, and North resigned. The action of France had stung England into a desire for reprisals, and the country clamoured insistently for Chatham to take the reins. He came into power, determined to turn upon France, and for that purpose to withdraw all English troops from America. He thought that even at this late stage America might be reconciled, and he deeply resented the idea of a war on Englishmen. But, unfortunately for England, at this most critical moment he died.

Spain, followed by Holland, had joined the Franco-American league, and for a time it was England against the world. The nation proudly rose to the emergency. Gibraltar was defended successfully for three years against the French and Spanish fleets, but the surrenders of Howe at Saratoga and Cornwallis at York Town sealed the fate of English arms in America. The general situation was further complicated for England by serious troubles in Ireland. The cup of humiliation was full. There was, however, one compensation, not fully realized at the moment. The blow which shattered England's autocratic power over the colonies also crushed George's attempt at autocratic power in England. Never again was a King of England to wield anything like the powers George had exercised.

In 1782 the Whigs returned to power, and Rockingham was entrusted with the task of satisfying Ireland, and ending the war with America. By a

formal statute, judicial and legislative supremacy over the Irish Parliament was relinquished, and by another statute the independence of America was recognized. The French and Spanish problem yet remained for solution. France wanted all India, excepting only Bengal: and Spain desired to recover Gibraltar. Brilliant victories at sea, under Rodney, changed the situation in England's favour and made peace easy. In the settlement France got little or nothing, but to Spain Minorca and Florida were ceded by England.

The loss of the American colonies at that time appeared to be an irremediable disaster—but Rodney's successes considerably softened the blow to the national pride. England's industrial expansion, particularly in woollen and cotton goods, brought her wealth and restored her international prestige. This expansion was accelerated materially by the development of the canal system, and the introduction of steam power into industry. Literally the country seemed to be gathering itself together for the titanic struggle to open a few years later with revolutionary France. The industrial movement was accompanied by a great moral enthusiasm, synchronizing with the gradual disappearance of the profligacy of the upper classes. At last the nation turned its attention seriously to ameliorating the conditions of the poor, their ignorance and suffering, and particularly to the correction of gaol abuses. English sentiment began to revolt against the slave trade, into which the country had entered as one of the results of Marlborough's victories, for the subsequent arrangements had included the cession to England of the monopoly of this traffic

between Africa and the Spanish dominions. England for instance had sent many slaves to the southern states of North America. Wilberforce, with the concurrence of Pitt the Younger, introduced a bill into Parliament in 1788, designed to abolish the trade, but it was not passed until 1807.

William Pitt had come into Parliament at the age of twenty-two, and almost at once assumed a commanding position. He brought forward a bill in 1782 to reform the Commons, on much the same lines as those laid down by his father, but it was rejected. The Whigs reduced the patronage powers of the king; they cut down the civil establishment and the pension list; and they abolished a host of useless offices. *At this point the direct bribery of members of Parliament absolutely ceased.* Still the Commons did not really represent the country; while Pitt, holding the complete confidence of the nation, as his father had done, was as powerless inside the House as he was influential outside. To reform the House he introduced a bill in 1783 to disfranchise boroughs convicted of corruption, and to add a hundred county members, but it was thrown out by two to one—in a House quite determined not to be reformed. Pitt in the same year became First Lord of the Treasury; but, while the nation supported him, the House did not—and he had to appeal to the country. In 1784 the nation responded to his call, and at the age of twenty-five he took the lead with a substantial majority. A new and important factor in the nation's affairs had arisen—the manufacturer. This class had complete faith in Pitt's great financial ability, and throughout his career the manufacturers loyally supported him.

Pitt was the first English minister to recognize thoroughly the importance of industry and wide markets, and he realized that England's trade was hampered by too many monopolies.

In 1785 Pitt once more attacked the question of reform of the House of Commons, with a bill to abolish certain "decayed" boroughs—by disfranchising thirty-six at once and transferring the seats to county members; but once more the Commons rejected the measure, and Pitt himself never raised the issue again. He regenerated English finance, and by lowered duties virtually ended the extensive smuggling system. He revived Walpole's excise scheme, reduced the public service, and restored the public credit. He also endeavoured to assist Ireland by removing all restrictions on her trade, and he narrowly succeeded at Westminster with a measure to that end, only to have the bill perversely thrown out by Grattan's Irish Parliament. In 1787, pursuing his far-seeing policy for peace and prosperity, he negotiated a helpful treaty of commerce with France. All his patriotic dreams for the betterment of his country, however, were shattered by the French Revolution—preluded by the fall of the Bastille in July 1789.

Europe had not enjoyed freedom from political and religious despotism as had England since 1688. France had maintained rigid class distinctions: and the mass of the people were denied equal rights at law or in industry. There was one measure of justice for the privileged aristocrat, one for the middle classes, and quite another for the masses. Nobleman and ecclesiastic were exempt from certain taxes, while the peasantry were cruelly over-

taxed. The right to collect taxes was "farmed-out" to capitalists, who often transferred it to sub-farmers—leading to extortion and dishonesty. And all this was accompanied by gross extravagance at the Royal Courts. One sentence in Carlyle's *French Revolution* epitomizes the situation: "The widow is gathering nettles for her children's dinner: a perfumed seigneur delicately lounging in the *Oeil-de-Bœuf* has an alchemy whereby he will extort from her the third nettle, and name it Rent and Law. Such an arrangement must end." Feudalism in many respects still prevailed; and the Court had sought to browbeat the Paris Parliament into passing edicts to which it strenuously objected. Such fundamental differences made it difficult for Englishmen, not fully understanding them, to appreciate the significance of a revolution which altered the face of the world. The fall of the Bastille was the death-knell of feudalism in France.

In 1788 George suffered an attack of madness, and the Prince of Wales claimed the right to act as Regent. Pitt firmly resisted, on the ground that it was the duty of Parliament to select the king's substitute and to determine the conditions. After protracted negotiations this was about to be effected by a bill in Parliament, making the prince the Regent, when the king recovered.

While in some degree sympathizing with French aspirations for political liberty, England became aghast at the social disorders in France and the brutal butcheries of the revolutionaries. Pitt stood for strict neutrality, without however approving in any way the increasing bloodshed. France for her part was very disappointed at English inaction, and

even irritated. She had looked confidently for English sympathy, because the new French conceptions of liberty had been derived very largely from England—for instance through writers such as Voltaire, who had resided in England for some time. France retaliated with secret endeavours to stir up revolutionary trouble for England in Ireland and India, and, when this was discovered, England became definitely antagonistic towards the Revolution. War broke out in Europe, France attacking Holland in 1793; and thus England was brought into a desperate conflict with France and Napoleon throughout the next twenty years. The struggle was waged not only on land and sea, but also in the field of economics—under Napoleon's determined efforts to crush English trade with his "continental system" of boycott.

At the outset of the protracted contest England's navy was efficient, but the army was poorly equipped, and had no really good leaders—until Moore (killed at Corunna) and Wellesley emerged. The costs of the war, with continuous heavy subsidies to the allies, were tremendous. They brought England to the verge of ruin, and largely undid Pitt's fine work as peace minister. As a matter of fact Pitt was better equipped for the work of peace reorganization than for war, though the country enthusiastically supported him in both directions. The nation was so determined not to be beaten by Napoleon that no opposition was raised to Pitt's new method of taxation—an income tax which levied 10 per cent on all incomes over £200. In 1800 Pitt brought about the union of England and Ireland—partly in order to assist Ireland economically, and partly because,

with only Protestants sitting, the Irish Parliament was unlikely to cause trouble, though obviously not really representing the nation. Bribery was used freely to pass the measure through the Irish Parliament—the end, in Pitt's view, justifying the means. One hundred Irish members and thirty-two peers went to Westminster; all trade restrictions were removed; and taxation burdens were distributed proportionately. The English and Irish exchequers were consolidated a few years later, and thus the union was completed. Pitt also moved for the removal of all religious tests and exclusions in Ireland—in respect both of Catholics and Dissenters, but the king violently opposed, on the ground that his coronation oath bound him to maintain the tests. Pitt resigned, but presently had to be recalled. He died in 1806—broken with overwork and anxiety. "Roll up that map," he said, pointing to the map of Europe on the wall, on hearing of the defeat of the allies by Napoleon at Austerlitz—"it will not be wanted these ten years."

The Grenville ministry sought to introduce religious equality by allowing Catholic officers in the army, and George demanded of his Ministers a pledge that they would not proceed with this proposal. They refused to give any such undertaking, and were dismissed. Later Canning came to the front—a devoted adherent of Pitt. Catholic emancipation was passed in the Commons by a great majority in 1812, but was rejected by the Lords. The king again suffered from madness in 1811, and the Prince of Wales became Regent.

Napoleon's continental system at this stage brought England into conflict with America. Deep

resentment had been aroused in America by England's retaliatory blockade of French ports excluding neutral goods destined for France. The trouble was intensified by searchings at sea of the vessels of all nations for English seamen and contraband. An inconclusive war with the United States resulted, extending to Canada, but within two years peace was made. In Europe events marched on relentlessly to Waterloo and the downfall of Napoleon in 1815. England emerged from the conflict almost ruined financially—but militarily triumphant. She gained several of the West Indian isles previously held by France, also Cape Town in South Africa, and the islands of Ceylon and Malta. The country, after serious embarrassments in readjusting its affairs, recovered fairly rapidly. There was considerable agitation for annual Parliaments and adult suffrage, and trouble arose over authoritative attempts to suppress public meetings—leading to several deaths in a riot at “Peterloo” (Peter’s Field) near Manchester. This agitation was countered by a somewhat unwise Act, operating for five years, making public meetings difficult to convene.

In January 1820 George III passed away.

George IV (Hanover, 1820-1830).—The new king was a drinker and debauchee, able, clear-sighted, unreliable, profligate. At no stage, either earlier as Regent or during his ten years occupancy of the throne, did he command the respect or affection of the nation. In the earlier part of his reign he interfered little in public affairs. On his accession he had asked that his private income should be increased, but this had been refused. He also

wanted a divorce, and this was postponed. The queen's death a little later put an end to these inconclusive and undignified proceedings.

By way of a beginning in the reform of the Commons the "rotten" borough of Grampound was disfranchised, and a year or two later there were motions in Parliament to treat similarly two other rotten boroughs. On Castlereagh's death the king objected to Canning's entry into the ministry, but, on strong remonstrances from Wellington, George with bad grace withdrew his objection. Peel also joined, and presently reformed the London police, while with Huskisson he initiated the movement for free trade. Later in his reign George took more interest in public affairs, and began to exercise influence over ministerial appointments—especially when weak ministers, after Canning's death, were in office. He was always bitterly opposed to Catholic emancipation, and virtually instructed the Wellington administration to do nothing to bring it about. In 1828 a measure was passed repealing the Test and Corporation Acts so far as Dissenters were concerned, and thereafter all municipal and other offices were open to them. Incidentally there remained no further need for the farce of passing annual indemnity acts on their behalf. Catholics and Jews however were still excluded.

In 1825 the king's brother, the Duke of York, broke constitutional usage by speaking hotly in the Lords against Catholic emancipation. Then the ministry brought strong pressure to bear upon the king—who finally gave way rather than take the grave risk of dismissing his ministers. In 1829 a bill was passed for the United Kingdom—yielding

practically all civil and political rights to Catholics—with some provisions by way of security against possible Catholic aggressions. Catholics had to swear allegiance to the Crown, to maintain the Protestant succession to the throne, to condemn all papal jurisdiction within the realm, and to disclaim any intention to disturb the Established Church or the system of Protestant government. Furthermore no priest could sit in Parliament. But in Ireland, where Catholicism prevailed, and by way of political counterpoise, the “40s. freeholder” franchise was repealed and a £10 suffrage substituted—the reasons for this reversal of the usual broadening trend being local and complicated.

William IV (Hanover, 1830-1837).—Greatly inferior to George IV in strength of will and intellect—and less conversant with public affairs—William was well-meaning and kindly, with a genuine respect for the constitution and his duty towards it. He had lived quietly for years, and suddenly was called to the throne on the eve of a momentous crisis. His short seven years reign was singularly fruitful in really great reforms.

Grey's ministry (which included Palmerston and Brougham) attempted economies, for instance in curtailing the civil list. William was not greedy, but he was a stickler for hereditary rights, and he resented the examination of such details by a parliamentary committee. The ministry stood firmly to their proposal; the Committee was appointed; but in the event it effected little. A civil list of £510,000 was granted.

After Catholic emancipation the question of

reform of the Commons began to agitate the nation seriously. Among other proposals it was sought to transfer the right to representation from the petty corrupt boroughs to the counties and the great towns. The first Reform Bill was introduced in 1831—and opened the protracted discussion about the many close boroughs, the relatively few electors, the sales of seats in Parliament, the heavy expenses of elections, and the excessive political privileges long exercised by a powerful landed aristocracy. A notable example of abuse was the unimportant rotten borough of "old Sarum," which returned a member—whereas Birmingham had none. The king was not directly opposed to reform—for he, like many others, did not realize at first that democratic government was involved, opening the way to the machinations of Radicals. The Lords opposed the measure as long as they reasonably could, for they saw very clearly that the reform meant the final supremacy of the Commons. The king expressed relief that *adult suffrage and the ballot* were not proposed, and added that he as monarch would have felt it his duty to oppose such measures to the very limit of his constitutional powers. As a matter of history both these reforms were achieved a generation later.

The "40s." franchise still remained, and leaseholders still had no votes in the counties, while the great families continued to be firmly entrenched in their close boroughs. Yet it is only fair to remember that this general situation, with all its defects, was far more liberal than any system existing in Europe at that time. In the English House of

Commons 154 "patrons" returned 307 members, a condition clearly calling insistently for remedy.

The Reform Bill, as finally passed in 1832, gave votes to £10 copyholders and £50 leaseholders in the counties, and to £10 ratepaying householders in the boroughs. Fifty-six "nomination" boroughs were disfranchised, and thirty others were reduced to one-member status. Sixty-five new seats went to counties, and forty-two to great unrepresented towns, with some other minor rearrangements. Parliament was limited to five years. This great measure gave new political importance to shopkeepers, landlords, and farmers—especially to shopkeepers.

When first introduced in 1831 there were monster meetings in support throughout the country, and the parliamentary history of the bill is worth brief record. The second reading passed the Commons by 302 to 301: at a later stage, however, the bill was defeated—and the king dissolved Parliament. The Lords did not wish for dissolution—but the king insisted upon his prerogative right. After the general election Grey returned with a big majority for the bill. A new measure on the old lines was submitted and passed by the Commons. The Lords rejected it by 199 to 158—twenty-one bishops voting against the bill. The king warned Grey that he would not consent to create a sufficient number of new peers to pass the measure. He prorogued Parliament, and public feeling ran high, with some outbreaks. During the six weeks recess it transpired that the king had expressed adverse opinions, and Grey respectfully protested about

such views becoming known, and thus prejudicing the Government.

The bill, after the recess, came up again—very much in its old form, but with slightly fewer disfranchisements—and once more was passed by the Commons by a substantial majority. Grey consulted the king about creating more peers should this prove necessary, and strongly pressed the point—the king finally consenting. The bill passed the second reading in the Lords by 184 to 175, but in committee they postponed a vital clause—a virtual challenge to the Commons, and Grey at once asked the king for fifty more peers. The king had not expected so large a number, and, while he temporized, Grey tendered his resignation which the king accepted. William thought that a more moderate reform measure would suffice, for he never really understood the determination of the nation. Later Grey had to be recalled, because of the wide popular clamour for the bill, and the king undertook to use his personal influence with the Lords. The Lords then passed the measure, many refraining from attendance at the later stages. William, while conscious that his duty directed the course he had taken, was deeply disappointed, for at last he saw clearly that the reform meant the virtual subjection both of the monarch and the House of Lords to the House of Commons. Throughout he had acted most straightforwardly and constitutionally.

Similar reform measures were passed for Scotland and Ireland, and the Scottish members at Westminster were increased from 45 to 53—the Irish from 100 to 105. The Reform Act completed

the revolution provoked by the Stuarts, and it became the charter of political rights for the great middle classes. It was now quite apparent that the Lords were not in any complete sense a co-ordinate House with the Commons; also that they could only delay an important measure passed by the Commons—they could not for any protracted period refuse it or themselves directly force an appeal to the country. As yet there was no payment of members, and this in itself tended to leaven the Commons with conservatism.

Gladstone came in with the first reformed Parliament under the new act: and with Peel as leader the "Conservatives" were first so named at this stage. Peel's party consisted of the more moderate Tories, about 150 strong, who for several years had been growing in power and numbers. The other members were "Liberals" (old Whigs) or "Radicals." In 1833 Grey, to the eternal credit of England, introduced and passed a measure *to abolish slavery from English soil*, and the Government paid an indemnity to slave owners of twenty millions sterling. In this first reform Parliament a bill introduced by Brougham constituted a *permanent judicial committee of the Privy Council*—the work to be carried out by committees selected *ad hoc* on each occasion. The judicial functions theoretically belonging to the "King in Council" were transferred to this permanent committee.

In 1834 the king suddenly got rid of the Whig ministry under Melbourne—for that purpose utilizing an opportunity which hardly warranted so drastic a measure. The king regarded this as his

own personal act—an exercise of the royal prerogative; but it was not really so in essence—for Melbourne behind the scenes had initiated the change with a proposal for his own retirement.

In 1835 a Municipal Corporation Act was passed by Russell, setting up a uniform system of government for municipalities, and abolishing exclusive trading privileges. In 1836 an act was passed to allow prisoners on trial to be defended by counsel. In 1837, the year of the king's death, a motion was introduced to abolish the property qualification for members of the Commons.

Victoria (Hanover, 1837-1901), Edward VII (Hanover, 1901-1910), George V (Hanover, 1910—): Final Constitutional Survey. The Empire.—In theory the Parliament at Westminster could make laws not only for the United Kingdom, but also for the dominions, the colonies, and the dependencies. *Scotland.* When James VI of Scotland in 1603 became James I of England no complete union was set up, though James was king in both countries. Full union was consummated in 1707—whereupon Anne became Queen of "Great Britain"—with one sovereign and one Parliament for the two countries. All acts of Parliament apply to both countries, though English and Scottish law in each case retains its own peculiar characteristics. In religion each country is entitled to maintain its own doctrine and discipline. *Ireland.* After the exercise by England of various forms of authority over portions of Ireland, in 1800 (George III) a union was brought about, and the new comprehensive title of the realm became the "United Kingdom of Great Britain and

Ireland"—until December 1921, when self-government on the dominion basis was conferred on the "twenty-six counties," better known as "the Free State." The other six counties (or Ulster) elected to remain part of the United Kingdom, with representatives at Westminster and a local Parliament for domestic purposes. During the 121 years of the Union the acts of the Parliament at Westminster applied to both countries. An English Lord-Lieutenant and his Council, however, remained at Dublin—though strictly they represented a prior political condition. They were not removed by the Act of Union in 1800—a curious anomaly under all the circumstances. The Lord-Lieutenant and his Council constituted a marked formal difference between Ireland and Scotland, but the executive authority of both was the English Cabinet. *Wales* has been part of Great Britain since 1535, and all English laws apply there.

The House of Lords serves as court of last appeal for England, Scotland, and Wales; but as regards Ireland (excepting Ulster) it is now the Judicial Committee of the Privy Council to which appeals lie—as is the case for the other dominions.

Ireland and the dominions.—The Treaty of 6th December 1921 gave the Free State "Dominion Status"—subject to an oath of allegiance to the Crown. On the 7th January 1922 the "Dail Eirann" accepted that basis. On the 17th January the Lord-Lieutenant, his staff, and the English troops, evacuated Dublin Castle—after a continuous English occupation of 752 years. The Free State has a Parliament of its own: it has constitutional

equality, with ties in the common loyalty to the throne and free association within the British Commonwealth. A dominion legislature to-day has equal rank with Westminster, and communications pass direct from Government to Government, and no longer through the king's representative in the dominion, the Governor-General. Dominions have the right to make treaties with other countries—under the general empire authority of the king—but not through the king as “King of Great Britain.” The dominions now themselves “approve” of foreign consuls *de carrière*—a matter previously supervised by Great Britain on their behalf.

Isle of Man and Channel Islands.—Strictly speaking these are not parts of the United Kingdom—though the Westminster Parliament has power to make laws for them. Westminster statutes do not affect them *unless specially so stated*. Appeals do not lie to the House of Lords but to the Privy Council; and these relations as a matter of fact set the precedent followed some time later by dominions and colonies.

Dominions and colonies.—As was said before, the Westminster Parliament in theory retains the right to legislate for these overseas areas, *but probably not to tax*. A Westminster Act of 1833 abolished slavery *throughout the colonies*—with money compensation. The English Copyright Act, and others, are similarly extensive; but after the American experience of 1776 there has been no attempt to levy taxes overseas. As with the Channel Islands, the statutes of Westminster do not extend overseas

unless specifically so stated. Britain has become very chary about legislating beyond the United Kingdom, though the latent power still exists, subject to limitations set out by the Imperial Conference of 1926. In the dominions and colonies the governor's assent gives temporary validity to bills passed by the local legislatures, but the "King in Council" may disallow. Would the "King in Council" be likely to-day to disallow any dominion bill dealing with local interests and not threatening some United Kingdom interest? By an act of Victoria (1865) every law made by a colonial government was to be *valid for the colony concerned*, except in so far as it was repugnant to any imperial act which extended to that colony. There are not many cases in which such conflict is likely to arise, but the shipping acts may be quoted in point.

The Imperial Conference of 1926 crystallized the growing practice of the dominions, rather than explored fresh fields; and to Lord Balfour's Committee was entrusted the work of setting down the conclusions—not always too clearly understood—to which the Conference was assumed to have agreed. There were uncertainties and gaps, and therefore a very capable sub-committee was appointed, which met in conference in 1929, to suggest methods of determining these issues to such extent as might seem reasonably practicable. The sub-conference *inter alia* had to deal particularly with the scope and operation of dominion legislation, and with the merchant shipping acts. Their very able recommendations will be presented for ratification to the approaching 1930 Imperial Conference.

Without attempting technical language, it may be said that—should these recommendations presently be adopted—the relations between Great Britain and the dominions in future will be governed by the following broad working principles.

(1) The dominions henceforth will be free to work out their own destinies in their relations with other nations.

(2) Past legislation of the Imperial Parliament no longer will apply to the dominions, and the somewhat theoretical right of disallowance of a Dominion Act by the Crown explicitly will be set aside.

There is one exception to the rule that for the future the dominions will finalize their own legislation, and this has to do with dominion stocks which at their request have been admitted to the special privileges of the United Kingdom Trustee list of securities. The right will be reserved to the Imperial Government to disallow any dominion legislation which affects adversely the contract with the stockholder. Quite rightly too.

In this matter of dominion legislation the theory seemingly will prevail that *the king will act on the advice of his ministers in that part of the Empire where the particular bill is passed.*

(3) The position of the Crown for the future (if the approaching Conference ratifies) is not to be affected or altered *except by an act of all the Parliaments.* In other words, the basis for the common allegiance to the Crown, whether in the United Kingdom or the dominions, is to remain as it is, *except by an act to which all assent, or conversely no*

one dominion by itself will be able to alter that basis.

(4) In the event of war each dominion apparently will decide for itself to what extent it will participate. There remains a doubt whether some parts of the Empire can be at war while other parts are at peace—an issue upon which some of the other nations conceivably might have something to say.

It is matter for regret that Great Britain no longer will speak confidently, in the councils of the nations, for the Empire as a whole, and, as long as the risk of big-scale war remains, inevitably there will be some weakening of the national front. Furthermore, while Australia and New Zealand at present appear to be ready to leave foreign policy to the Mother Country, that cannot be said with anything like the same confidence of Canada, the Irish Free State, and South Africa. There clearly exists some lack of unanimity in dominion views on this important problem. There is too, in the background, the unanswered question—how much longer Great Britain will support the heavy burden of armament—to the entirely disproportionate degree which prevails to-day. If the League of Nations were to succeed in bringing disarmament down to a police basis—and the risk of war really were reduced to a minimum—then these troublesome questions of adequate contributions to Empire defence would not be so important. But that day clearly is not yet.

"The King never dies." Under the Act of Settlement the heir begins to reign directly his predecessor dies. The coronation oath until 1910

required, among other things, a declaration that the king would maintain the Established Churches for England and Scotland. Parliament alone had power to alter that provision. The king was required to declare against transubstantiation and other distinctive Romish doctrines: he had to join in communion with the Church of England: and he must undertake not to marry a Roman Catholic. In 1910 Parliament decided to amend the royal declaration, so that the king no longer need use language offensive to a large number of his subjects. By an Act of that year the new form required the sovereign to declare "that he is a faithful Protestant, and that he will, according to the true intent of the enactments which secure the Protestant succession to the Throne of the Realm, uphold and maintain the said enactments to the best of his power according to law."

There is no legal provision for a king's mental failure or physical unfitness. Who then for instance is to summon Parliament? On the failure of George III Parliament was opened by a very doubtful method—that was by Commissioners under the Great Seal—the Lord Chancellor affixing it. A fictitious royal assent was assumed to have been given. The Prince of Wales then temporarily exercised the royal authority, subject to some restrictions, as for instance the right to create peerages.

The king to-day, according to *the letter* of the law, has almost as much power as Henry VII—though in actuality far less. Whenever the nation had ensured by indirect methods that some particular power no longer should be exercised by the king without the consent of Parliament, as a rule no

further action was taken, such as for instance introducing express statutory limitations. It is often difficult therefore to determine the king's actual powers to-day. The important fact is that, since the Revolution of 1688, no king has attempted materially to overstep the *recognized* powers in matters of serious importance, nor is he likely to do so in future.

William III succeeded to great powers—to which the Bill of Rights set some very definite limits. The king was placed definitely *below the law* of the realm, and with no power to suspend or dispense with statutes. He was unable by royal proclamation to create a new offence; he could not maintain a standing army in peace time, nor could he try men by martial law. Judges no longer held office at his pleasure, and the Court of the Star Chamber had recently been abolished. Before the Bill of Rights Parliament had begun to appropriate supplies for particular purposes; in other words, the national income was no longer in the king's pocket, at his sole control. But that did not mean that he was stripped of all powers; he still retained many which had not been abolished. He had a Council, ever since Henry III, which he appointed at his pleasure, while he was under no compulsion to accept its advice. In 1830 the full Privy Council numbered about two hundred and fifty, half Peers and half Commoners. There was no fixed number—no quorum—and the king could add whom he pleased. The body included all present and past ministers, a few members of the royal family, two archbishops and a bishop, judges and ex-judges, and other specially selected men, military, scientific, and

literary. But this Council rarely met, though in some extreme emergency the full body might be summoned. No such meeting, however, has taken place since 1839. The king theoretically exercised his prerogative powers through this Council, by means of "Orders in Council," while the abolition of the Court of the Star Chamber had robbed the Council of nearly all its judicial powers. After that event the king consulted it less regularly, and *then not the full Council*. When he desired advice he selected a few—the real "Privy Councillors"—some of them holding high offices of state. In the days of Charles II these were called the Cabal, because of the initials of the members. These real councillors existed within the wider circle of nominal councillors, and this smaller body gradually became the "Cabinet" Council, because it met in the king's cabinet. Its members included the Lord Chancellor, the Treasurer, Lord President, the Keepers of the Seals, the Secretary of State, Chancellor of the Exchequer, Lord High Admiral, and others. During Anne's reign Parliament rather looked askance at this Cabinet, but the method gradually became customary. Under the advice of this Council the king summoned Parliament—by an Order in Council. William and Mary always attended Privy Council meetings, but neither George I nor George II did so, their real interests being in Hanover rather than in England. The Cabinet then began to meet *without the king*. His presence only became necessary when an Order in Council was wanted, but at such times the business was formal only—the Cabinet having discussed and

decided previously. This system is now the invariable practice.

To-day the *statutory* powers of government are exercised by the king through a legal meeting of the Privy Council. These Councillors consist of a few chosen by the king, usually six, with some cabinet ministers. After an issue has been discussed and settled, a Privy Council meeting is called, and the king merely approves—without debate. The resultant Orders in Council are different from statutes, and judges are under no necessity to accept them as legally binding—unless they are made strictly in the manner and only for the purposes authorized by law. Such orders may control the treasury, the police, local government, and other areas of administration, and they carry powers of inspection, e.g. of factories and mines—powers of enquiry and licensing, and powers of control in certain matters of social importance such as naturalization.

Through their control of the public purse the Commons always can impose a check upon the king. When a measure passes both Houses the king *must not withhold his assent*. The last attempt so to withhold was made by Queen Anne, in the case of the Scottish Militia Bill.

Through his Cabinet the king legally exercises the common law prerogatives of the Crown. He must have a Treasurer, to administer with legal authority the finances of the realm, a Lord Chancellor to supervise the judicial system, a Secretary of State for the nation's affairs—and so with the Board of Trade, Local Government Board, Board

of Agriculture, Post Office, India, Council of Education, and the rest. The full ministry numbers from forty to fifty—but the Cabinet contains only sixteen or seventeen members. Junior ministerial officers do not enjoy Cabinet rank. Some ministers sit in the Lords, others in the Commons. Ministers are expected to agree in a common policy, and it is the custom for a dissentient to resign—though there is no law to that effect. Cabinet meetings are quite informal—they are not summoned by the king, who himself is never present—and no records are kept. They collectively resign if they cannot command a majority in the Commons.

The prerogative powers, for instance in relation to pardons, are carried out by the Home Secretary, and if he makes a serious mistake he personally would have to answer to Parliament. It is a clumsy way of correcting unsatisfactory verdicts, and it does not extend to civil cases. The king's prerogative extends *in theory* to the power to declare war or make peace; and ministers, in the letter of the law as it is recorded, hold office during his pleasure. Since the Settlement (William III) there have been few explicit limitations by statute of the king's powers, but on the other hand statutes have conferred several of his prerogative powers upon ministers, thus indirectly limiting the king. The old prerogative powers had become indefinite and clumsy, and for practical purposes it would be impossible for a king to revive them to-day. For instance, he could at one time debase the coinage, but not to-day, though his prerogative power has never explicitly been withdrawn. The reason is that statutes have determined the gold and silver

contents of coins—and these cannot be varied by the king.

The king's powers, *always in conjunction with his high officers of state*, cover the following areas of the nation's affairs.

(1) The assembling and dissolving of Parliament. In any case Parliament cannot be kept going beyond five years, and then would dissolve automatically without the king's intervention.

(2) Assenting to statutes.

(3) Powers in foreign affairs, for instance to declare war and make peace. The king can declare war without the assent of Parliament, but if necessary Parliament would check him by refusing supplies. To-day the ministry exercises this power for the king.

(4) Powers to appoint and dismiss officers judicial, civil, and military.

(5) Powers to collect and expend revenues.

(6) Powers connected with naval and military forces.

(7) The administration of justice.

(8) The maintenance of order (police).

(9) Social and economic affairs—public health—trade—education.

(10) Religion and the national Church.

All governmental and judicial high officers *in theory* are appointed by the king, and the Government itself (the ministry) *in theory* is dismissible by him. Actually the determinations of the House of Commons prevail. Judges hold office during good behaviour, and are dismissible only on resolutions of both Houses.

"The king can do no wrong," so runs the maxim:

but let us say rather that the English law does not provide any means by which the king can be punished or compelled to make redress. His subjects can only make "petition of right"—that is, appeals to his conscience. In practice, however, a citizen suffering a public wrong can appeal to the Courts, and the Attorney-General will fight the suit—if the king permits, and it is against constitutional usage for the king to withhold his assent. If the Court grants damages no execution can be issued against the king—*but his advisers will pay*. Furthermore, even if the king cannot be prosecuted, *his ministers can*, for royal immunity is coupled with ministerial responsibility. The king cannot retain in office ministers who no longer hold the confidence of the House of Commons. In theory ministers are not responsible to Parliament, for the two Houses cannot dismiss a king's minister, yet ministers in a very real sense *are* responsible to the Commons and to the Courts, *if they overstep their powers*. On such facts and conditions English liberty depends.

In Australia acts have been passed which render it unnecessary to have resort to petitions of right. Proceedings may be brought in the ordinary course against the Crown (i.e. the Government) by persons who have a good legal claim—for instance on a contract.

The Lords.—The number in 1908 was 540—or roughly ten times as many as under the Tudors. As compared with the older days the spiritual side of the nation has relatively few representatives in the Lords, and the more recently created bishoprics

do not carry seats in that Chamber. The large increase has been in the temporal peers. The power to create peers is useful to ministers for political purposes. Anne created twelve in order to pass a certain act. In 1719-1720 the Lords themselves sought to restrict the power to create peers. The king was ready to accede, but the Commons resisted—and so averted a great constitutional change. In 1832 the Lords reluctantly passed the Reform Bill, mainly because of a threat that if necessary the king would create fifty new peers.

The House of Lords should not persistently resist the will of the Commons in matters of serious importance, though this theory until quite recently was based upon nothing more than a growing recognition. It was a still more definitely accepted practice that the Lords must not alter a money bill, their powers having been limited to acceptance or rejection. The Parliament Act of 1911 resolved all doubts on these questions—and gave statutory form to the established practice.

The Cabinet.—Outside of Parliament there gradually evolved—during the 17th and 18th centuries—a political organism not illegal but certainly extra-legal—the Cabinet. The statute law does not recognize it, but custom does. Strictly speaking it has no legal powers, duties, or rights. Actually it has been accepted as a recognized part of the constitution.

The Commons.—The Reform Act of 1832 raised their numbers to 670—consisting of 495 English, 72 Scots, and 103 Irish. Electors' qualifications had

remained unaltered for four centuries, but several radical changes have been made during the last hundred years.

(1) Before the Reform Act the shires (counties) still had the "40s. freeholder" franchise, but copyholders (leases) had no vote, no matter how valuable their properties. There was no register of voters till 1832; there was only an oath of qualification. The boroughs varied greatly, with their 40s. freeholders, residents, and freemen, while the close or pocket boroughs were governed by special conditions. In 1829 (George IV) there was passed the Catholic Relief Act; prior to that Catholics for many years had been unable to sit in the House.

(2) From 1832 only registered electors could vote. For counties there came in the £10 freeholder—with some exceptions in favour of the old 40s. men, also leaseholders over £10 per annum, and £50 occupiers or tenants at will. In the boroughs all diversities were swept away; votes were given to owners or occupiers of £10 houses or shops, and this was referred to as the "£10 occupier" franchise. There were in addition some temporary exceptions in favour of certain old voting rights.

(3) 1858. Property qualifications for parliamentary candidates disappeared.

(4) 1867. For counties the voter's property qualification was lowered from £10 to £5, and there was added a new qualification of £12 per annum rateable value. In the boroughs the resident householder and lodger qualification was added: for householders this was absolute, and for lodgers

based upon twelve months' residence and £10 annual unfurnished value.

(5) 1877. Ballots were introduced, voting previously having been open.

(6) 1884. The act of this year extended to counties the £10 occupier franchise—also the householder and lodger qualification was added: for boroughs certain servants were included, while in counties some of the old 40s. freeholder rights were retained. The electoral distinctions between county and borough largely vanished under this measure, and a forward step was taken towards fairly equal electoral districts.

(7) The police in 1887—previously excluded—obtained votes. Peers and women still had no votes, also aliens, lunatics, almshouse tenants, and electoral officers. By statute bankrupts had no votes.

(8) 1918. Males of the age of twenty-one, who for six months had resided in or occupied premises worth £10 per annum secured votes, also wives of qualified men and women over thirty residing in or occupying premises worth £5 per annum.

(9) 1928. *Equal Franchise Act*. Under this act the qualifications of women were made identical with those of men.

Membership.—The parliamentary system demands that ministers shall be in Parliament—answerable to it, *though this is not embodied in the law*. In case of disqualification membership of the Commons automatically ceases—for instance by death—by becoming an alien or a peer—taking holy orders—conviction for certain crimes—bankruptcy for six months—or acceptance of office under the Crown.

A member cannot resign,* but if he desires to retire he is granted the "Chiltern hundreds" or some other nominal office under the Crown, and thus, under the statute of Queen Anne, he vacates his seat. The House can *expel* a member, though there is no legal definition of causes for expulsion. Its own discretion is the only limit upon this power of Parliament. It cannot, however, declare a member ineligible—a point hotly disputed in the Wilkes case. In 1856 a member convicted of fraud was expelled. If so desired and without going the length of expulsion, the House can suspend a member from sitting for a defined period.

Disputed elections.—The Commons won the right, in the reign of James I, to hear and decide such disputes. This power was misused grossly during the 18th century for party purposes. The famous Grenville Act (1770) placed the requisite authority in the hands of a Committee of thirteen, elected so as to ensure some degree of impartiality. In 1868 this work passed to the Court of Common Pleas, and in 1887 to the High Court of Justice.

Duration of Parliaments.—During the reign of Edward III there were enactments in 1330 and 1362 for annual Parliaments. These later were overriden in practice, but were not actually repealed until recent times. In 1641 (Charles I) Parliament was to sit at least once every three years—repealed 1664. In 1664 (Charles II) there were to be no longer intervals than three years—repealed 1887. In 1694 (William and Mary) no Parliament was

* In Australia he can.

to last more than three years, but was to sit at least once in three years. The Septennial Act was passed in 1715, and this endured till 1911. Now Parliament lasts nominally five years. Actually it began to sit every year a considerable time ago—partly to maintain the standing army by an annual vote, and partly because supply was granted to the Crown for only one year at a time.

Privileges.—*Freedom of debate* was secured by the Revolution of 1688, and since then there have been no proceedings against a member. The king always could make things unpleasant for an obnoxious member, up to the time of George III—or dismiss him from office, but this could not be done to-day. A member speaking in either House is beyond the reach of the law of slander, and no action for libel can arise in respect of any paper printed by order of the House. The House at any time can resolve that its proceedings “be not reported,” and could commit to prison anyone who contravened the resolution. *Freedom from arrest*, be it remembered, does not extend to indictable offences; and in 1869 imprisonment for debt was abolished generally.

The work of Parliament.—The Lords are a court of trial for peers, and an Appeal Court from all lower United Kingdom courts—whereas the Privy Council acts only for overseas appeals. Parliament supervises all governmental affairs, and has powers of enquiry into all public questions. Ministers are expected to be present in Parliament to answer legitimate questions.

The making of statutes is of course the main

work of Parliament—carried through by concurrence of King, Lords, and Commons. Though usually legislating on lines applying *generally*, and leaving all administration to ministers, officials, and courts—Parliament has power to deal with individuals or particular affairs if it so desires. In the old days much legislation was of this character—for instance a measure to enclose a particular common. Failing action in the Courts, Parliament itself can punish. Sir John Fenwick was executed in 1697, under an Act of Attainder, for high treason, because he had participated in an attempt to assassinate William III. There have been other punitive enactments since then, but not involving the death penalty. For instance, Atterbury was banished in 1720. Such Acts are unlikely to be needed now, yet as recently as 1876 certain voters were disfranchised by Act of Parliament for bribery.

Party Government.—Anne's ministers were partly Whig, partly Tory, and only gradually did it come about that the monarch was expected to choose his ministers entirely from the dominant party. As matter of history Sir Robert Walpole was the first leader of a politically homogeneous ministry. Coalition ministries have been necessary at times, but usually only temporarily and for some special emergency. Such special arrangements do not affect the principle now firmly established. The ministry carries a common responsibility, and if defeated all resign—a practice which arose in the 18th century. All members of ministries in the older days were not invariably in Parliament, but gradually all were expected to be there, to answer for Cabinet

action. The office of prime minister was not constituted by law—it was solely a matter of parliamentary usage. Walpole *de facto* was prime minister, but did not like to be so styled. A prime minister cannot dismiss his colleagues—nor can they dismiss him. Such “party” government implied for its development the condition (not however formulated by law) that the king must act on the advice of his ministers; he must select the prime minister in accordance with the will of the House; and the prime minister then selects his own colleagues. George I and George II unconsciously assisted this development by their lack of interest in English affairs, but George III tried to *govern* as well as reign. He failed signally, and the attempt has not been repeated. The king *influences*, but no longer governs, and in all very important matters he must be guided by the Cabinet.

The king and the national purse.—In the cases of the earlier kings there was only one purse—in the king’s pocket. He received “first fruits” and “tenths” from religious sources—rents from the extensive royal demesne—profits of royal forests—revenues from the Courts of Justice, fines and forfeitures—royal fisheries—wreckage of the sea—royal mines and treasure trove. As late as the 17th century the king enjoyed a considerable revenue entirely his own, and in addition such grants as Parliament agreed to make; and Parliament did not attempt to dictate how he was to spend this income. At the Restoration, however, the most profitable of the foregoing items were abolished. In their place Parliament gave the king excise duties on beer,

cider, and spirits; customs (tonnage and poundage) were granted for his life to James I—but to Charles I only for a year: while direct taxes, subsidies, and the like were granted only for some particular purpose.

William III succeeded to the hereditary excise, and to what remained of the old hereditary revenues—Parliament granting a further excise. In 1698, however, there was instituted for the first time a “civil list;” a sum of £700,000 was granted for the king’s private purse, and in addition a tonnage and poundage; but if everything together, including the royal rents, exceeded £700,000, he was only to receive that sum. George I received the same amount, and George II £800,000. George III gave up the greater part of the hereditary revenues, including lands, excise, etc., and he too received £800,000. In 1780 Parliament paid up his private debts. Out of the “civil list” the king, among other items, paid the salaries of the judges and ambassadors. George IV received £850,000 from what was now called the “consolidated revenue,” and he paid the salaries of judges, ambassadors, and commissioners of the treasury. Out of the £850,000 a sum of £60,000 was set apart for the king’s pocket-money. William IV received £510,000—but did not pay judges and ambassadors. Victoria received £385,000, of which £60,000 was for her private purse. She had other revenues, as for instance from the Duchy of Lancaster. *In theory* all public revenues still are granted to the king, but to-day these are “ear-marked” for particular public purposes. Parliament does not vote money to pay

this or that directly—it grants moneys to the king and his ministers for specified purposes.

The national debt started in 1692, when a sum of a million was borrowed for purposes of the war with France. Previously the king personally borrowed, and at times failed to repay, when the nation as a rule had to step in and liquidate his obligations. By way of security for the above million certain duties were imposed for ninety-nine years, to cover the "annuities" (interest). The Bank of England was founded, in this connexion, in 1694; and thereafter it was the nation which borrowed for public purposes—not the king.

The navy and army.—Down to the reign of Anne no commander-in-chief was appointed—except possibly for a particular campaign, for the king in person was entitled to command the army. During Anne's reign the Duke of Marlborough was made commander-in-chief, but the office was not established as a normal arrangement till 1793. In 1904 it was abolished, and the powers were transferred to the new Army Council. In time of war a commander-in-chief of the forces in the field is appointed, by or with the approval of the Government. Compared with those of the army there are few laws affecting the navy, nor has a law ever been enacted to prevent its maintenance in times of peace. Parliament controls the navy—as it does the army—through votes in supply for its maintenance; and therefore the king must have a minister in Parliament to speak for the navy when necessary. There is no need for a formal annual vote to keep the navy going, as is the case with the army. The king still

retains prerogative power to impress men for the navy, for it has never been revoked. It can hardly be said, however, to be still operative.

Justice.—*The Judicial Committee of the Privy Council*, as has been mentioned, sits for all overseas cases; originally it acted only for the Isle of Man and the Channel Islands—now for an extensive Empire overseas. Until 1833 there was no special judicial committee, the judicial work was done by such members of the Privy Council as held or had held high judicial office. In 1833 a Judicial Committee was constituted by statute, and its composition has varied from time to time. It now consists of the President of the Council, Lord Keeper, and all Privy Councillors who hold or have held high judicial office. Two other privy councillors may also be appointed, and the judges of the superior courts of the dominions (if they are privy councillors) are also members. The king in addition may appoint two judges from British India.

The result is that the "Judicial Committee" consists of all the Lords of Appeal in ordinary—that is to say the Lords who do the judicial work of the House of Lords, and in addition it is strengthened by eminent lawyers from the dominions. All the members of the Committee do not act at once, but constitute a species of panel, from which are summoned as many as are required for each particular case. Only one opinion is expressed, and strict secrecy prevails. The Privy Council also performs other and less important work for England—for it is the Court of Appeal from the Ecclesiastical Courts, and till 1875 from the Admiralty Courts.

Civil Courts of England.—*The High Court of Justice*, with appeals to the Court of Appeal, and thence to the House of Lords. There are about five hundred inferior County Courts, with appeal to the High Court, the cases usually being limited to a £100 interest. Either party in a case can claim a jury of eight—otherwise the judge decides. *The Equity Courts* dated from about 1688, and were styled the Chancery. We have seen that the House of Lords, towards the end of the 17th century, secured the right to hear appeals. One judge presided, there was no jury, and the judge dealt with both fact and law. The Chancery (or Equity) Courts enforced certain obligations which Common Law did not enforce, and provided certain remedies which the other jurisdiction did not yield. One purely “equitable” obligation is the duty of a trustee, or of one who holds property in trust for another. Equity dealt specially with injunction cases and specific performance of contracts. For instance A allows drains to discharge on B’s land: the Common Law gave B damages—Equity compelled A to divert the flow. A contracts to sell certain land to B, and then refuses to carry out the contract: the Common Law gave B money damages, while Equity commanded A to fulfil his contract, and punished him if he failed. During the 19th century certain mitigations of this dual procedure were introduced—to the end that a Court of Common Law could grant injunctions, and Equity Courts could give damages. In 1875 *the Judicature Act* abolished the dual system, and set up the High Court and the Court of Appeal. The High Court is a court of first instance *with unrestricted com-*

petence in all civil actions—to administer both law and equity in all cases. There are now three divisions, with certain types of business entrusted to each—Chancery, King's Bench, and Probate, Divorce, and Admiralty. In the Chancery Court there is no jury unless the judge approves, and in the other Courts either party can claim a jury on questions of fact. Appeals lie to the Court of Appeal and the House of Lords. By constitutional rule (not statute) only Law Lords sit on these final appeals, with a quorum of three.

[*Note.* This amalgamation of Common Law and Equity has not yet been made in New South Wales or Tasmania: it has in other parts of the Commonwealth of Australia.]

Criminal Law.—Petty offences, involving up to three-months sentences, are dealt with summarily in the Courts of Petty Sessions, with no juries, and occasionally appeals on law to the Quarter Sessions. More serious offences go to a Grand Jury of more than twelve and not over twenty-three—who either find a “true bill” or dismiss the charge.* The Attorney-General also can set the law in motion, or he can decline to move and thus prevent vexatious prosecutions. The Attorney-General will answer to Parliament if he abuses these powers.

[*Note.* The Grand Jury system does not apply in Australia, where the Attorney-General does the work.]

House of Lords and its judicial functions.—All the

* The Grand Jury decides in effect whether there is a case to answer. It only puts men on their trial before the ordinary criminal jury of twelve.

Lords would sit to try a peer, or for an impeachment. There have been only nine impeachments since William III, and in the 19th century only one, that of Lord Melville in 1805. This method is not very likely to be adopted in future, unless for instance a revolution threatened. Statesmen committing a crime can be tried like other criminals.

Religion.—In mediaeval times the State and the Church were structurally separate: each had its own legislature, laws, and courts—though the same men belonged to both. They were nominally at peace with one another—yet disputes often arose, usually over their respective areas of jurisdiction. The English Church was but a branch of the greater Church of Rome, and while the “King and Parliament” were supreme over the English *state*, the English Church Convocation was subordinate to the authority of Rome. In a sense the English Church enjoyed “home rule” within the English realm, and at times its own leaders resented attempts by the papal see to make appointments to the higher church positions in England.

During the reign of Henry VIII (1509-1547), when mediaevalism ended, there were bishops and abbots in the Lords, *constituting about half the full membership*. They did not attend solely in their capacity as spiritual peers, but rather as tenants-in-chief of the Crown. As has been mentioned, it was the practice of the Church Convocations *to tax themselves* to about the same extent as the Commons in Parliament taxed the laity. They legislated for the Church in Convocation—made spiritual canons

—and enforced these canons in their own Ecclesiastical Courts against the laity as well as against the clergy. Only the Ecclesiastical Courts had power to punish “ordained clerks,” and cases of treason were the only exemptions from this “benefit of clergy.” They retained jurisdiction over intestate estates and matrimonial causes, and also over certain social misdeeds, such as immorality, slander, and libel. To enforce their decrees against the laity they relied on impositions of penance and if necessary excommunication, and where needful the secular arm as a rule would help them. Excommunicated persons had no remedy at law, and this made the church authority a very real one.

It may be noted that church property did not belong to the Church as a whole, but to bishops personally, or to the abbey or monastery. Similarly the “tithes” (one-tenth of property) did not go into the general coffers of the Church, but to the particular abbey or monastery. The King’s Courts, however, retained the right to present to ecclesiastical benefices.

1382. In the reign of Richard II there was passed the first act against “heretics”—at that time styled “Lollards.” They were followers of Wyclif, and predecessors of the Puritans.

1414 (*Henry V*). A second act went further, and provided for trials in Bishops’ Courts. There were a number of executions under this act.

The Reformation profoundly altered the relations of Church and State, and while much of the old

organization was retained, e.g., the Bishops' Convocation, and Ecclesiastical Courts—all were brought under subjection to King and Parliament.

1534 (Henry VIII). No new canons were to be made by the Church without the royal assent.

1535. The king was to be acknowledged as the supreme head of the Church of England. Immediately prior to this, payments to Rome had been stopped, and now it was forbidden to make appeals to Rome from the English Ecclesiastical Courts. The king's recommendations to bishoprics were to be accepted.

1536. The smaller monasteries were dissolved.

1539. A number of the greater monasteries were dissolved, and Parliament began to legislate, with some caution as yet, on religious doctrine—as for example against the denial of the Real Presence. It should be remembered that Henry VIII at this stage did not wish his political measures to lead to any serious modification of Catholic dogma or ritual. His quarrel with Rome deepened later.

1547-1553. During the reign of Edward VI the Protestant reformers got the upper hand in England.

1548. The first Act of Uniformity was passed—aimed against Catholicism. The Book of Common Prayer was settled, and punishment was provided for failure to use this book. All other books were to be destroyed, also all images in churches, and religion in England became frankly a matter of statute.

1553-1558. During Mary's brief but disastrous

reign all these provisions were swept aside, and the reformers in turn became "heretics."

1558-1603. Elizabeth restored the Protestant edifice. She did not herself assume—nor did her successors—the personal headship of the Church in England, as her father had done. During her reign was founded the Court of High Commission, and the clergy had to take an oath attesting the monarch's supremacy, together with explicit renunciation of all foreign authority.

1559. The second Act of Uniformity, which holds good to-day. Under it a Church of England clergyman would be breaking statute law if he read other than the prescribed Prayer Book, but, oddly enough, the clergy of other denominations are not affected by this act. Only the King and Parliament can alter the Prayer Book—as a very recent controversy has shown.

From the Reformation there began a protracted attempt to compel by statute the acceptance of religion, *and the gradual abandonment of that attempt is the history of toleration in England.* The statutes of Elizabeth were directed against both Catholics and Dissenters, and while those affecting Puritans and Nonconformists were severe, those against Catholics were still more so.

1562. The Oath of Supremacy—that the king was the spiritual and temporal head of the Church in England. This oath had to be taken by all candidates for the House of Commons, the schools, and the law.

1571. It became treasonable to publish a papal

bull in England, or to convert anyone to the Romish Church.

1580. It became a crime to celebrate or hear the Mass, and fines were imposed for non-attendance at the orthodox churches.

1585. Jesuits were expelled from England, and Puritans, by the decision of the Court of High Commission, were rendered unable to hold ecclesiastical benefices.

1593. Action in restraint of Puritan services was intensified.

1603-1625 (*James I*). The Oath of Supremacy was strengthened: it operated more strongly against Catholics than against Puritans.

After the Restoration the full code against Catholics was maintained—that is to say, it was not repealed; but under both Charles II and James II, with their pro-Catholic sympathies, breaches of the law by Catholics often were connived at, or even sanctioned under the king's dispensing powers.

1662 (*Charles II*). Parliament began to tax the clergy direct. After 1717 there were no more regular sittings of the Convocation—and only one has been summoned since, in 1861. Convocation cannot now meet without a royal summons, and its legal powers are very limited. There still remain some bishops in Parliament, but no Church of England clergyman can sit in the Commons, though they have votes. Oddly enough there is nothing to prevent a Nonconformist minister from sitting in Parliament.

1664. An act against attending worship in Conventicles—directed against Puritans.

1665. The notorious *Five Mile Act* was passed. No Nonconformist minister was allowed within five miles of a corporate town where he had ministered, nor could he teach in any school.

1673. The *Test Act*. A sacramental test of the Church of England was enjoined on any person holding an office of trust.

1678. The Parliamentary Test Act for both Lords and Commons—against the doctrine of transubstantiation. It excluded Catholic peers from the House of Lords. The last execution for “heresy” had taken place in England in 1612 (James I) : and in 1677 the power to burn heretics was abolished.

1688. Just before William and Mary took the throne a Toleration Act was passed. The penal code against Protestant Dissenters was greatly modified, particularly in connexion with disabilities arising from oaths, attendances at church, and teaching.

1728 (*George II*). In this reign began the custom of passing annual *Acts of Indemnity*, protecting dissenting holders of office who had failed to take the oath or to receive the Church of England Sacrament. This curious course was adopted rather than risk trouble by repeal of the relative punitive statutes.

1779 (*George III*). A further *Act of Toleration*. While some feeling lingered against Dissenters, the annual Indemnity Acts enabled them to vote for Parliament, and to sit as members. Catholics still were regarded as a political danger, and for them heavy disabilities remained. They could not hold land, or teach, or officiate as clergy, or celebrate or

hear Mass; and there were heavy penalties for educating any person as a Catholic—up to forfeiture of estate. There were severe punishments by imprisonment for Romish priests who officiated. Catholics could not sit in either House, because of the necessary oath against transubstantiation, and that, broadly speaking, had been the state of affairs for Catholics from Elizabeth to George II.

1791. The greater part of the penal code against Catholics was repealed, making conditions considerably easier for those who were ready to take an oath against the Pope's *civil* power, and also against the Romish doctrine that faith need not be kept with a heretic. By virtue of these Indemnity Acts Catholics could hold most offices, and also worship under certain conditions, but they remained unable to sit in either House, because of the necessary transubstantiation oath. Strictly speaking, they still had no votes, but it is fairly certain that many did vote at this time.

1828 (*George IV*). The restrictive provisions of the Test and Corporation Acts were repealed, for all Protestant Nonconformists.

1829. The *Catholic Emancipation Act* was passed. Under this act, upon taking a non-contentious oath of allegiance to the king, Catholics could vote for Parliament and also sit. They became competent to hold any office except two or three of the highest—as for instance Regent, Lord Chancellor, or (until the position was abolished) Lord-Lieutenant of Ireland. There was no actual repeal of the older statutes, but most Catholics got over the difficulty by taking this oath of allegiance.

1846 (*Victoria*). All the anti-Catholic laws were swept off the statute book—except as to Jesuits.

1868. All disabilities for Nonconformists were deleted.

To-day religious liberty and religious equality are complete, and all forms of public worship are permitted. There are still a few unrepealed provisions, as for instance against the Jesuits, but these no longer are observed in practice.

1869. A "declaration" was permitted in Courts of Law, in substitution of the oath, for conscientious objectors such as Quakers. No religious limitations exist to-day in respect of voting power. No layman has been prosecuted for heresy in the last one hundred and eighty years, and any such prosecution, technically, could only be undertaken in the Ecclesiastical Courts, to-day no longer operating.

We have seen how successfully the Kings of England fought their protracted battle against Feudalism, the Baronage, and the Church, only to succumb eventually to the people in Parliament assembled, and its statute law. It is interesting to note how—while retaining the monarchical form—Parliament gradually but determinedly took from the monarchy all aspects of absolutism. It is a tribute to the British genius for practical compromise that all this was effected with a minimum of bloodshed and upheaval. Most of the changes were brought about by peaceful rearrangement, often without the Parliament troubling to solidify into statutory form the concession it had wrested from the reigning monarch.

It has been a long transition from a king who often bent his Council to his will, who initiated taxation, who kept the nation's purse in his private pocket, who summoned and dissolved Parliament at his will, who himself appointed and dismissed his ministers, who suborned justice if he so desired, who at times suspended the operation of statutes, and who declared war and made peace—to a king who on his own authority can do none of these things, who has to accept ministers representing the majority party in the Commons, who is under obligation to act on their advice, they deciding, he affixing his signature. Yet it would be extremely foolish to assert that in consequence of these readjustments the king to-day exercises no power. Assuming him to be a reasonably good king, he exerts considerable influence upon the nation's affairs through the ministry, who in theory still remain *his* ministers, though they are directly responsible to Parliament. He advises, warns, and mediates in crises, though he cannot on his own sole authority direct the course of events. At the heart of an Empire whose parts are ever changing in their mutual relations, the king remains the one great unchanging tie. He stands before the world as the sole personal representative of the Empire. To the British he is the visible embodiment of their honourable traditions, the focal point for their loyalty.

INDEX

INDEX

- ACT OF PRAEMUNIRE, 24
 Act of Settlement, 148, 154, 164,
 168, 206
 Act of Supremacy, 52
 Act of Union, 202
 Acts of Indemnity, 120, 231-2
 Acts of Uniformity, 71, 123,
 228-9
 Alfred, *King*, 3
 America, migration to, 97-8;
 struggle for independence of,
 176-9, 181-8; taxation of
 colonists, 181-3, 185-7; war
 with, 193-4
 Anne, *Queen*, 143, 155-6, 167-
 70, 172, 201, 210, 214, 219,
 222
 Appeal, Court of, 15, 224-5
 Appropriation of supplies, 162-
 3, 208
 Army, *The*, 89-91, 97, 99-100,
 104-12, 118, 136-8, 143, 148-9,
 153, 166-7, 181, 185, 212, 218,
 222
 Army Council, 222
 Ashley, *Lord*. *See* Shaftes-
 bury, *Lord*
 Attainder, Acts of, 43, 69, 85,
 165-6, 219; Bills of, 30, 53,
 55-6, 102
 Attorney-General, his power to
 prosecute, 225
 Australia, proceedings against
 Government in, 213
 BALFOUR, *Lord*, 204
 Ballot, *The*, 197, 216
 Bank of England, 152, 222
 Bankrupts, debarred from vot-
 ing, 216
 Baronage, decentralizing ten-
 dency of, 1
 Barons, and Magna Charta, 9-
 11; decline of influence of,
 33; feudal power diminished,
 14-15; Great Council and
 Henry III, 12-13; power
 checked by Henry II, 7;
 statute against military re-
 tainers of, 38; under the
 Normans, 5. *See also* Great
 Council of Barons.
 Benevolences, 30, 36-8, 45, 47-8,
 55, 57, 67, 79-81, 89, 93, 96
 Bill of Rights, 148, 151, 154,
 157, 160-2, 165-7, 208
 Bills, petitions replaced by, 44
 Bishops, bills to expel from
 the Lords, 102-4; courts, 227;
 in House of Lords, 226;
 restored to the Lords, 120
 Blois, House of, 7
 Bolingbroke, *Viscount*, 170
 Bombay, ceded to England, 119
 Book of Common Prayer, 66,
 121, 228-9
 Boroughs, electoral qualifica-
 tions of, 156; manipulation
 of, 137, 140, 172; pocket and

- rotten, abolished, 103, 198;
power to create new, 160;
representation in Great
Council, 18; representation in
Parliament, 40, 82, 215;
rotten, 180-1, 189-90, 195, 197
Boston "tea party," 186
Boyne, *Battle of*, 147-8
Brougham, *Lord*, 196, 200
Buckingham, *1st Duke of*, 81,
91-4
Bunyan, John, 125
Bute, *Earl of*, 180-2
- CABAL, *THE*, 123, 209
Cabinet, *The*, 6, 166, 172, 209-
11, 214
Canada, struggle between Eng-
land and France for, 176, 181
Canning, George, 193, 195
Canute, 2
Cape Town, gained by England,
194
Carlyle, Thomas, quoted, 191
Caroline, *Queen*, 172, 174
Catholic emancipation, 193, 195-
6, 232
Catholic Relief Act, 215
Caxton, William, 36
Ceylon, gained by England, 194
Channel Islands, 203, 223
Chancery, Court of, 15, 42, 164-
5, 224-5
Charles I, 79, 87-8, 90-106, 156-
8, 160-1, 165
Charles II, 79, 114-36, 159, 209
Charles, the Young Pretender,
176
Chatham, *Earl of*. *See* Pitt,
William
"Chiltern hundreds," 217
Church of England, *The*, con-
fiscation of property sug-
gested, 28; convocations, 50-2,
82-3, 163, 226, 230; corona-
tion oath, 207; decline of
influence of, 33; ecclesiastical
courts, 14, 50-2, 88, 223, 227-
8; history of connection with
the state, 226-33; judicial and
financial connection with
Papacy broken, 52; place in
the Witan, 2-3; power cur-
tailed by Edward I, 15;
power curtailed by Henry II,
7; power in Norman times,
6-7; reformed by Parliament,
50-2; union with Noncon-
formists ended, 149; use of
English in services compelled
by statute, 58
Civil courts, 224-5
Civil list, 162, 196, 221
Claim of Rights, 147
Clarendon, *Earl of*, 103, 120-3,
167
Clergy, chief offices of state
transferred to laymen, 25; in
House of Lords, 39, 226;
place in the Witan, 2-3; re-
formed by Parliament, 51;
right to marry, 66; supremacy
of Crown over, 66; taxation
of 45, 82, 163, 226, 230; with-
drawal from Parliament, 22,
163, 230
Coinage, debasing of, 57, 59,
70, 211; uniform system for
Great Britain, 168
Colonies, constitutional status
of, 203-4
Colonization, 177
Committee of Public Safety,
104
Common Council, 9, 15, 18
Common Pleas, Court of, 16,
182, 217

- Commons, House of, at close of reign of Henry VII, 39-40; at close of reign of William III, 155; collapse of power of, 32; control of public purse, 210; establishment of, 22-3; expulsion of members, 217; freedom of members from arrest, 157, 218; government vested in, 101; gradual movement of sovereignty towards, 117; increase of membership of, 82, 214; increasing power of, 25-6; membership, qualifications for, 216; Pitt's proposals for reform of, 184, 197; Pitt's (the younger) proposals for reform of, 189-90; placed on equality with Lords, 43; property qualification of candidates, 156, 215; property qualification of candidates abolished, 201, 215; publication of debates, attempt to prevent, 184-5; right of Ministers to sit in, 156; right to originate money bills, 83-4, 163; Roman Catholics granted right to sit in, 215; sole power to tax secured by, 151; supremacy of, 200; supremacy of, consolidated, 172; suspension of members of, 217
- Commonwealth, The, 106-114
- Conservative Party, 200
- Constituent Convention, 108-9
- Constitution, The, at close of reign of Edward I, 16-21; at close of reign of William III, 155-67; at close of revolution of 1688, 150-2; at the death of James I, 82-91; changed by Simon de Montfort, 13; Dominions and colonies, 203-6; Empire, 201-6; end of struggle for, 13; forms restored, 112; modern constitutional government set up by Walpole, 172-3; place of King in, 207-13; Reform Bill, 197-200; reformed under Cromwell, 108-9; restoration of, 114; safeguarded by Declaration of Rights, 145-6, 148
- Convocation, 50-2, 82-3, 163, 226, 230
- Cook, *Captain James*, 177
- Copyholders, 3, 9, 20, 35, 82, 215. *See also* Villeins
- Copyright Act, 203
- Corporation Act, 195, 232
- Counties, qualifications of voters, 215-6, representation in Parliament, 197-8
- County courts, 224
- Cranmer, *Bishop*, 58-9, 61, 63
- Criminal law, 225
- Cromwell, Oliver, 105-14, 158
- Cromwell, Richard, 113-4
- Cromwell, Thomas, 50-5, 58
- Crusades, abolition of levies for, 16; taxation for, 17
- Curia Regis. *See* King's Council
- Currency, reform of, 152
- Customs duties, 17, 21, 31, 36, 44-6, 88-9, 92, 95-6, 136, 161, 185, 190, 221-2
- DAIL EIRANN, 202
- Danby, *Earl of*, 127-30, 145, 150, 163, 167
- Danegeld, 16
- Debt, imprisonment for, abolished, 218

- Declaration of Independence, 186
 Declaration of Indulgence, 125-6, 139-41, 160
 Declaration of Rights, 145, 148
 De la Mare, Peter, 83
 Dettingen, Battle of, 176
 Dominions, constitutional status of, 203-6; legislation, 203-6
 Duchy of Lancaster, 221
 Dunkirk, sold to France, 121
- EALDORMAN**, powers of, 2
 Earl. *See* Ealdorman
 Ecclesiastical Commission, 141, 145
 Ecclesiastical Courts, 14, 50-2, 88, 223, 227-8
 Edict of Nantes, 138
 Edward I, 13-18, 20, 40, 90
 Edward II, 21-2, 39-40, 90
 Edward III, 22-6, 40, 43-5, 90
 Edward IV, 29-32, 35-6, 38, 48, 50, 89
 Edward V, 36
 Edward VI, 56, 58-60, 84, 86
 Edward VII, 201
 Elections, disputed, 84, 156, 217
 Electoral system, 156, 180, 214-6
 Eliot, Sir John, 92-6, 156
 Elizabeth, *Queen*, 34, 52, 62-74, 84, 86, 88-9
 Empire, The, 201-6
 Equal Franchise Act, 216
 Equity, 42, 164, 224-5
 Erasmus, quoted, 53
 Exchequer, 6; Court of, 16, 77, 89, 161
 Excise duties, 182, 220-1
 Exclusion Bill, 134
- Feudalism, decentralizing tendency of, 1; end of feudal parliament, 13; end of serfage, 27; feudal courts, 15; feudal powers of barons diminished, 14-15; under William the Conqueror, 4-5
 Five Mile Act, 122, 231
 France, alliance with American colonists, 186-7; alliance with Spain, 175-6, 187-8; Anne at war with, 169-70; Charles II's negotiations with, 119, 122, 124, 126-9, 134-5; expansion sought by, 175; James II's negotiations with, 137, 142-3; Napoleon's wars, 192-4; struggle for India and Canada, 176-9, 181, 188; William III at war with, 150, 152-3
 Franchise, alteration under Cromwell, 109; changes in, since the Reform Act, 214-6; property qualifications, 215; restriction of, 34-5, 196-7
 Frederick the Great, 176-7
 Free trade, initiation of movement for, 195
 Freedom of speech, in Parliament, 83, 156-7, 218
 Freeholders, 15, 19-20, 27, 35, 156, 215-6
 Freemen, 3-4, 7, 9-11
 French Revolution, 190-2
- GARDINER**, *Bishop*, 56, 58-9, 61
 George I, 170-4, 220-1
 George II, 172, 174-8, 220-1
 George III, 178-94, 220-1
 George IV, 179, 191, 193-6, 221
 George V, 201
 Gibraltar, defence of, 187
 Gladstone, W. E., 200
- FENWICK**, Sir John, 165, 219

- "Good" Parliament, 26
 Government, by coalition, 219;
 machinery of, 151, 210;
 party, establishment of, 167-
 8, 219; responsible, establish-
 ment of, 151-2, 172-3; respon-
 sible, flouted by George III,
 178; transfer of power to the
 nation, 179
 Governors-General, status of,
 203
 Grand Jury, 225
 Great Britain, established by
 union with Scotland, 168
 Great Council of Barons, 2, 12-
 13, 17-18, 21. *See also* King's
 Council
 Grenville, *Lord*, 182-3, 193
 Grenville Act, 217
 Grey, *Lord*, 196, 198-200
- HABEAS CORPUS ACT, 131
 Halifax, *Earl*, 134-6, 138, 152
 Hampden, John, 93, 99, 102, 104
 Hanover, House of, 154, 168,
 170-206
 Haxey, 83
 Henry I, 5-6, 9, 12
 Henry II, 5-7, 16-18, 41
 Henry III, 11-13, 16, 20
 Henry IV, 28, 41, 45-6, 90
 Henry V, 28, 44
 Henry VI, 15, 18, 28-9, 39
 Henry VII, 31, 37-40, 42, 45,
 47, 50, 87, 89
 Henry VIII, 38, 40, 43-4, 47-
 58, 82, 84-5, 89
 Hereditary monarchy. *See*
 Monarchy
 Heresy, prosecution for, 233
 Heresy Bill, 57
 High Commission, Court of, 88,
 97, 164, 228, 230
- High Court of Justice, 217,
 224-5
 Holland, Great Alliance with,
 146, 154; joins Franco-
 American league, 187; war
 with, 122-5; war with France,
 192
 Holles, Denzil, *Lord*, 104
 Home Secretary, prerogative
 powers of, 211
 Huskisson, William, 195
- IMPEACHMENT, 43, 165, 226
 Imperial Conference, 204
 Income tax, 192
 India, struggle between Eng-
 land and France for, 176, 181
 Industrial expansion, 188-90
 Ireland, Battle of the Boyne,
 147-8; Catholic risings in,
 103; Cromwell in, 107; papal
 army landed in, 71; parlia-
 mentary franchise, alteration
 of, 196; Reform Bill for,
 199; supremacy over Irish
 Parliament relinquished, 188;
 trade restrictions, rejection of
 bill to remove, 190; trouble
 in, 187; union with England,
 192-3, 201
 Irish Free State, 202
 Isle of Man, 203, 223
- JACOBITES, 170-4, 176, 180
 James I, 74-84, 86, 88-90, 120,
 130, 160, 201
 James II, 101, 124, 126, 131,
 133, 135-50, 153-4, 159-61, 164
 Jeffreys, *Judge*, 137, 139
 Jews, excluded from office, 195
 John, *King*, 8-11, 16, 17
 Judges, 16, 88, 99, 138, 154, 164,
 212, 223
 Judicature Act, 224

Jury. *See* Grand Jury; Trial by jury

Justice, administration of, 17, 42-3, 163-6, 212, 223-5

KING, The, Alfred and the people, 3; assembling of Parliament dependent on, 40; assent to Parliamentary measures, 210; before the Conquest, 1; choice of the people, 1-2; constitutional position of, 207-13; direct taxation by, illegal, 44; divine right claim ended by Bill of Rights, 148; Ealdorman the deputy of, 2; executive power resident in, 44; fees to, 19; immunity of, 213; increased power of, from Edward IV to Elizabeth, 30-35; making of laws by, 2; new theory of kingship, 116; patronage by, 180; power of, curbed by Parliament, 13-15; power of, in the Witan, 2-3; prerogative limited by Magna Charta, 9; prerogative powers of, 210-2; revenues of, 220-2; status of, 20-21, 206-13; status of, in dominions, 205-6; succession, 206-7

"King in Council," 41, 200, 204
Kings. *See* under names of Kings

King's Bench Court, 16, 225

King's Council, 6, 11-12, 14-15, 17-18, 21, 24, 26, 30, 38, 40-2, 44, 49, 57, 78, 84, 86-7, 130, 164-6, 208. *See also* Great Council of Barons

King's Courts, 15-17, 42, 88, 227
King's reeve, 10

Knights, dominant in the Commons, 40; freeholders made Knights, 15; place in Parliament, 22-3; place in the Witan, 2-3

Knights' Courts, 17

LABOURER, The, 3, 9

Lancaster, House of, 28-9, 32

Land, ownership of, 19-20; possession of, the Keynote of the Feudal system, 4; taxes, 16-17, 174

Latimer, *Lord*, 43

Latitudinarians, 113

Laud, *Archbishop*, 91, 93, 95, 97-101

Law, The, administration under Edward I, 15-16; civil courts, 224-5; criminal law, 225; equality before, 7; fabric built up by Henry II, 5, 7; government by, under Magna Charta, 9-10; statute, Magna Charta foundation of, 10

League of Nations, 206

Leaseholders, 35

Levies, 11, 16, 31, 36, 38, 79, 93, 95, 161

Liberal Party, 200

Loans, forced, 12, 30, 67, 85, 89, 93, 161; public subscriptions to, 152

Lollardry, 33, 49, 58, 227

Lords, House of, at close of reign of Henry VII, 39; at close of reign of William III, 155; bill to fix numbers of, 173; court of last appeal for England, Scotland and Wales, 202, 218, 224; court of trial for peers, 218; destruction of power of, 34; establishment of, 22-3; judicial capacity

- derived from Royal Council, 7; judicial functions of, 42-3, 165, 225-6; money bills not alterable by, 84, 163, 214; numbers increased, 213-4; temporary disappearance of, 106
 Luther, Martin, 48-9
 MAGNA CHARTA, evasions of, by Henry III, 12; levies abolished by, 16; merchants freed by, from unjust exactions, 44-5; provisions of, 9-11; sale of justice ended by, 17; way prepared for, by Henry I, 6
 Malta, gained by England, 194
 Marlborough, *Duke of*, 147-8, 150, 155, 168-70, 222
 Martial law, 166
 Mary I, 56, 60-5, 84, 89
 Mary II, 127-8, 132, 134, 140-1, 144-52
 Mary, Queen of Scots, 66, 68, 72-3
 Mayne, *Rev. Cathcart*, 71
 Melbourne, *Lord*, 200-1
 Melville, *Lord*, 226
 Merchant shipping acts, 204
 Methodism, 175
 Milton, John, 98, 122
 Ministers, responsible, 23, 151-2, 154, 156, 213, 216, 219-20
 Monarchy, abolition of, 106; absolute, 20, 27; elective, 20; hereditary, 1, 20; hereditary power ended, 148; increased power of, from Edward IV to Elizabeth, 30-5
 Monasteries, suppression of, 52, 54, 59
 Money bills, right of Commons to originate, 83-4, 163; right of Lords only to accept or reject, 84, 163, 214
 Monmouth, *Duke of*, 132-5, 137
 Monopolies, sale of, 80, 89, 96; trade, 181-2
 Montagu, Charles. *See* Halifax, *Earl of*
 Montague, Richard, *Bishop*, 92
 More, Thomas, 50, 53
 Municipal Corporation Act, 201
 Municipalities, government of, 201
 Mutiny Act, 149
 NANTES, Edict of, 138
 Napoleon Bonaparte, 192-4
 Naseby, Battle of, 105
 National Bank, 152
 National debt, 152-3, 170, 181-2, 222
 Naturalization, 210
 Navigation Acts, 183, 186
 Navy, The, 222-3
 Nonconformists, 121-5, 135, 137, 139-40, 143, 149, 173-4, 193, 195, 229-33
 Normans, The, 4-6
 North, *Lord*, 185, 187
 OATES, TITUS, 129, 133
 Oath, substitute for conscientious objectors, 233
 Oath of Supremacy, 229-30
 Orange, House of, 144-55
 Ordainers, 21
 Ordeal, trial by, 8
 Orders in Council, 209-10
 Oxford, *1st Earl of*, 170
 PAPACY, aids to Rome by Henry III, 12; appeals to, from English courts, disallowed, 7, 24, 52, 228; barons save England from subjection

to, 8; claim to temporal supremacy over all princes, 69; diplomatic relations with, 139; English church judicial and financial connection with, broken, 52; English obedience to, restored, 62; limitation of powers by statute, 23-4; Martin Luther's denunciation of, 48-9; Papal nuncio received at Windsor, 139; temporal authority cast off by Henry III, 11

Papal bulls, 69-71, 229-30

Pardons, 211

Parliament, annual Parliaments decreed, 40; assembly of, dependent on king, 40; assumed modern form under Edward I, 13; at close of reign of Henry VII, 39-40; bribery of members ended, 189; citizens included in, 13; confirmation of ecclesiastical resolutions by, 82-3; control of money grants by, 21; deposition of Edward II by, 21-2; division into Lords and Commons, 22-3; duration of, 40, 84-5, 102, 146, 157-9, 173, 198, 212, 217-8; increasing independence of, 82; Irish, 100; Irish membership of, 199; judicial functions of, 42-3; Magna Charta herald of, 10; measure for triennial parliaments passed, 102; no refusal of assent to acts of, since Anne, 172; not to be dissolved without its own concurrence, 103; "packing" of, 60; powers usurped by the Royal Council, 30-5; publication of debates forbidden by

Commons, 184-5; relation to Dominion parliaments, 203-6; right to regulate commerce secured by, 148; Roman Catholics excluded from, 129; sale of seats in, 180, 197; Scottish membership of, 168-9, 199; sovereignty of realm vested in, 85; struggle for, in Henry III's reign, 11; triumph over the monarchy, 28; Wilkes's attack on secret proceedings of, 182; work of, 218-9

Parliament Act, 214

Party government, 167-8, 219-20

Paul, *Pope*, 63-7, 69

Peasants' Revolt, 27, 34

Peel, Sir Robert, 195, 200

Peers, power to create, 214

Peterloo, 194

Petition of Right, 93-4

Petitions, legislation by, 21, 24, 43-4; replaced by bills, 44

Petty Sessions, Courts of, 225

Philip, *King of Spain*, 61-3, 65, 68-9, 71-3

Pitt, William, *Earl of Chatham*, 175, 177-8, 180-7

Pitt, William, the younger, 189-93

Pius, *Pope*, 69-71

Plantagenets, The, 5, 7-28

Police, reform of, 195; votes given to, 216

Poll tax, 26

Pope, The, Book of Common Prayer denounced by, 66; Henry VIII excommunicated by, 54; Papal nuncio received at Windsor, 139; spiritual offices filled by, 39. *See also* Paul, *Pope*; Pius, *Pope*

- Portland, *Lord*, 94-6, 99
 Prerogative, royal, 95, 127, 139, 156, 159-61
 Presbyterian Church, 104-5, 119-21, 169
 Press, The, censorship abolished, 131; freedom of, 174, 182; political power of, 180, 185
 Prime Minister, 220
 Prisoners on trial, act to allow defence by counsel, 201
 Privileges, sale of, 89
 Privy Council, 6-7, 138-9, 154, 203, 208-10, 218; Judicial Committee of, 15, 166, 200, 202, 223
 Proclamations, royal, 55, 77-9, 86, 121, 123, 160, 166
 Protestantism, adhesion of England to, 58, 66; attacked by James II, 139-40; growth of, 54; secure, 105; to be maintained by the Crown, 146, 154
 Provisions of Oxford, 12
 Provisions of Westminster, 12
 Prussia, rise of, 176; subsidies to, 180-1; treaty with, 177
 Public meetings, suppression of, 194
 Puritanism, 95, 97-8, 115-6, 120
 Pym, John, 94, 99, 101-4

 QUARTER SESSIONS, 225

 RADICALS, 200
 Reform Bill, 101, 197-9, 214
 Reformation, The, 47-9, 54, 227-8
 Religion and the State, 226-33
 Renaissance, The, 33, 39
 Revenue of the Crown, 16-17, 20, 26-7, 31, 36, 38, 44-6, 48, 52, 54, 57, 67, 77-9, 84-5, 88-9, 92-6, 99-100, 110-1, 119, 123-5, 128, 134, 137, 148, 151-2, 161-2, 212, 218, 220-2
 Richard I, 8
 Richard II, 21, 26-8, 41, 46
 Richard III, 36-7
 Richard, *Duke of York*, 29
 Rochelle, 93-4
 Rockingham, *Marquis of*, 183, 187
 Rodney, *Admiral*, 188
 Roman Catholicism, 57, 60-74, 81, 91, 118, 120, 124-9, 131, 136-43, 147, 149, 193, 195-6, 215, 226-33
 Runnimeade II
 Russell, *Lord John*, 201
 Russia, attempted treaty with, 177
 Rye House Plot, 135
 Ryswick, Peace of, 153-4

 SANDYS, *Sir Edwin*, 83
 Saxons, 4, 6
 Scotland, Cromwell in, 107; document of covenant with, burned, 120; proposed war on, 100; Reform bill for, 199; Scottish Militia Bill, 210; separate government of, 76; union arranged with, 107, 109; union completed, 168, 201; William III as King of, 147
 Scottish Militia Bill, 210
 Scutage, 7-8, 14, 16
 Securities, dominion, 205
 Septennial Act, 218
 Serfs, 3-4, 27
 Seven Years' War, 177
 Shaftesbury, *Lord*, 121, 126, 129-35
 Shakespeare, William, quoted, 27
 Sheriffs, 46
 Ship-money, 99-100, 102

- Shipping acts, 204
 Simon de Montfort, *Earl of Leicester*, 13, 18
 Slavery, abolition of, 188-9, 200, 203
 Somerset, *Earl of*, 29
 Somerset, *Protector*, 58-9
 Spain, James I's alliance with, 79-81; joins Franco-American league, 187; Mary I's alliance with, 63-4; Mary's I's alliance with, broken by Elizabeth, 71; Minorca and Florida ceded to, 188; peace with, 96; Spanish Armada, 72-3; war with, 175-6
 Squire, The, 75
 Stamp duty, 181, 183, 185
 Star Chamber, Court of, 15, 38, 42, 53, 77, 86-7, 96, 103, 158, 160, 163-4, 209
 Statute law, 122
 Statute of Westminster, 89-90
 Statutes, definition of, 43; King's proclamations given force of, 54; suspension of, by the King, 160
 Stephen, *King*, 7
 Strafford, *Earl of*, 97, 99-103
 Strode, —, 83
 Stuart, House of, 3, 74-106, 114-44, 164-70
 Suffrage, 180; adult, 197
 Sunderland, *Earl of*, 142-3, 151-2, 168, 173
 TAINE, H. A., quoted, 39
 Taxation, arbitrary, supported by judges, 99; arbitrary, end of, 102; by assent of Great Council of Barons, 13, 18; by the Common Council, 9; direct and indirect, 44-5, 88-9; for wars, 16, 23, 25-6, 46-8, 90, 99, 161; illegal, by Edward III, 24; illegal, denounced by Magna Charta, 9, 44-5; income, 192; levying of, by Parliament, set aside by Cromwell, 110; no taxation without common consent of realm, 14; no taxation without representation, 11-12; of American colonies, 181-3, 185-7; of dominions and colonies, 203; of imports, 17; of land, 16-17, 174; of property, 17, 48; of wool exported, 17, 25, 44-5; poll tax, 26; Ship-money, 99-100, 102; sole power of, secured by Commons, 84, 151; uniform system for Great Britain, 168; vested in Parliament, 45
 Tea, duty on, 185-6
 Temple, Sir William, 130-1
 Tenants, rights of, 12, 19
 Test Acts, 67, 126, 138-40, 171, 195, 231-2
 Thorpe Thomas, 83
 Tithes, 227
 Toleration Act, 121, 149, 231
 Tories, 149-50, 153, 169-70, 172-3, 175, 180, 200
 Towns, government of, 10; representation in Parliament, 24, 198
 Towton, Battle of, 29, 31, 35
 Trial by jury, for members of the Commons, 157; in civil courts, 224-5; in criminal courts, 225; Magna Charta and, 9; preparation of way for, 8; present form taken by, 34; superseded by Star Chamber, 38
 Trial by ordeal, 8
 Trial by peers, 9

- Triennial Bill, 152, 159
 Tudor, House of, 3, 24, 30, 36-74, 78, 90
 ULSTER, 202
 United Kingdom, 201
 Utrecht, Treaty of, 170
 VANE, Sir Henry, 107, 120
 Victoria, *Queen*, 201, 221
 Villeins, 3-4, 9, 19-20, 27. *See also* Copyholders.
 Villiers, George. *See* Buckingham, 1st *Duke of*
 Voltaire, 192
 Vote by ballot, 197, 216
 Voters, register of, 215
 WALES, 202
 Walpole, Sir Robert, 169, 171-6, 178, 190, 219-20
 War, dominions and, 206; King's power to declare, 211-2; taxation for, 16, 23, 25-6, 46-8, 90, 99, 161
 Wars of the Roses, 29-30, 33-5
 Warwick, *Earl of*, 35
 Warwick, *Protector*, 59-60
 Wellington, *Duke of*, 192, 195
 Wentworth, Thomas. *See* Strafford, *Earl of*
 West Indies, islands annexed by England, 194
 Weston, Richard. *See* Portland, *Lord*
 Whigs, 149-50, 152-3, 169-70, 172-3, 175-7, 180-1, 187, 189, 200
 Wilberforce, William, 189
 Wilkes, John, 182, 184
 William I, the Conqueror, 4-5
 William II, 6
 William III, 125-6, 128, 132-5, 137, 140-56, 159, 164, 172, 208
 William IV, 196-201, *See* 221
 Witan, 2-5, 20
 Witenagemot. *See* Witan
 Wolsey, *Cardinal*, 47-50
 Women's franchise, 216
 Wool, taxation of exports, 17, 25, 44-6
 YORK, House of, 29-38

Halstead Printing Company Ltd.
Allen Street, Waterloo

